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Commission on Human Rights

Report on the sixty-first session

(14 March-22 April 2005)

Draft resolution and draft decisions recommended for adoption by the Economic and Social Council, and the resolutions and decisions adopted by the Commission at its sixty-first session*

(For use by members of the Economic and Social Council during its 2005 substantive session)

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* The draft resolution and draft decisions recommended for adoption by the Economic and Social Council, and the resolutions and decisions adopted by the Commission at its sixty-first session will subsequently be published as part of the complete report of the Commission, as the *Official Records of the Economic and Social Council, 2005, Supplement No. 3.*

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I. Draft resolution and draft decisions recommended for adoption by the Economic and Social Council

A. Draft resolution

Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law

The Economic and Social Council,

Taking note of Commission on Human Rights resolution 2005/35 of 19 April 2005, in which the Commission adopted the text of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,

1. *Expresses its appreciation* to the Commission for the adoption of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law;

2. *Adopts* the Basic Principles and Guidelines as contained in the annex to Commission resolution 2005/35;

3. *Recommends* to the General Assembly that it adopt the Basic Principles and Guidelines.

[See chap. II, sect. A, resolution 2005/35,
and chap. XI.]

B. Draft decisions

1. The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/2 of 7 April 2005, endorses the Commission's decision to establish a working group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, to be composed of five independent experts, one from each regional group, to meet intersessionally for a period of three years, with the following mandate:

(*a*) To elaborate and present concrete proposals on possible new standards, general guidelines or basic principles encouraging the further protection of human rights, in particular the right of peoples to self-determination, while facing current and emergent threats posed by mercenaries or mercenary-related activities;

(*b*) To seek opinions and contributions from Governments, intergovernmental and non-governmental organizations on questions relating to its mandate;

(*c*) To monitor mercenaries and mercenary-related activities in all their forms and manifestations in different parts of the world;

(*d*) To study and identify emerging issues, manifestations and trends regarding mercenaries or mercenary-related activities and their impact on human rights, particularly on the right of peoples to self-determination;

(*e*) To monitor and study the effects of the activities of private companies offering military assistance, consultancy and security services on the international market on the enjoyment of human rights, particularly the right of peoples to self-determination, and to prepare draft international basic principles that encourage respect for human rights on the part of those companies in their activities.

The Council also endorses the request of the Commission to the Working Group to report annually to the Commission and the General Assembly.

[See chap. II, sect. A, resolution 2005/2,
and chap. V.]

2. The right to development

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/4 of 12 April 2005, approves the decision of the Commission to renew for one year the mandate of the Open-ended working group established to monitor and review progress made in the promotion and implementation of the right to development and to convene its seventh session before the sixty-second session of the Commission for a period of 10 working days, 5 of which shall be allocated to the second meeting of the high-level task force on the right to development to be held well in advance of the session of the Working Group.

[See chap. II, sect. A, resolution 2005/4,
and chap. VII.]

3. Situation of human rights in Myanmar

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/10 of 14 April 2005, endorses the Commission's decision to extend the mandate of the Special Rapporteur on the situation of human rights in Myanmar, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year, to request the Special Rapporteur to submit an interim report to the General Assembly at its sixtieth session, to report to the Commission at its sixty-second session and to integrate a gender perspective throughout his work.

[See chap. II, sect. A, resolution 2005/10,
and chap. IX.]

4. Situation of human rights in the Democratic People's Republic of Korea

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/11 of 14 April 2005, endorses the Commission's decision to extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, as contained in Commission resolution 2004/13 of 15 April 2004, for a further year.

The Council also approves the request of the Commission to the Special Rapporteur to report his findings and recommendations to the General Assembly at its sixtieth session and to the Commission on Human Rights at its sixty-second session and the request to the Secretary-General to give the Special Rapporteur all necessary assistance in the discharge of his mandate.

[See chap. II, sect. A, resolution 2005/11,
and chap. IX.]

5. Situation of human rights in Belarus

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/13 of 14 April 2005, endorses the Commission's decision to extend the mandate of the Special Rapporteur for a further year, from within existing resources, and requests him to continue his efforts to establish direct contacts with the Government and with the people of Belarus, with a view to examining the situation of human rights in Belarus and following any progress made towards the elaboration of a programme on human rights education for all sectors of society, in particular law enforcement, the judiciary, prison officials and civil society, and to report to the Commission at its sixty-second session.

The Council also endorses the Commission's request to the Secretary-General to give the Special Rapporteur all necessary assistance in the discharge of his mandate.

[See chap. II, sect. A, resolution 2005/13,
and chap. IX.]

6. Effects of economic reform policies and foreign debt on the full enjoyment of all human rights

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/19 of 14 April 2005, endorses the Commission's decision to request the independent expert to report to the General Assembly on the issue of the effects of economic reform policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights.

The Council also endorses the Commission's request to the Secretary-General to provide the independent expert with all necessary assistance, in particular the staff and resources required to carry out his functions, as well as to facilitate his participation in and contribution to the follow-up process of the International Conference on Financing for Development, including in the multi-stakeholder consultations to be organized in 2005 on issues relevant to his mandate.

[See chap. II, sect. A, resolution 2005/19,
and chap. X.]

7. The right of everyone to the enjoyment of the highest attainable standard of physical and mental health

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/24 of 15 April 2005, approves the Commission's decision to extend for a period of three years the mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

[See chap. II, sect. A, resolution 2005/24,
and chap. X.]

8. Enforced or involuntary disappearances

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/27 of 19 April 2005, approves the Commission's request to the Intersessional open-ended working group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance to meet for a period of 10 days in one formal session before the end of 2005 with a view to the completion of its work, and to report to the Commission at its sixty-second session.

[See chap. II, sect. A, resolution 2005/27,
and chap. XI.]

9. Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/33 of 19 April 2005, endorses the Commission's decision to request the Special Rapporteur on the independence of judges and lawyers to submit a report on the activities relating to his mandate to the General Assembly at its sixtieth session and to the Commission at its sixty-second session.

The Council also endorses the Commission's request to the Secretary-General, within the limits of the United Nations regular budget, to provide the Special Rapporteur with any assistance needed for the discharge of his mandate.

[See chap. II, sect. A, resolution 2005/33,
and chap. XI.]

10. The right to freedom of opinion and expression

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/38 of 19 April 2005, approves the decision of the Commission to extend the mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression for a further three years and its request to the Special Rapporteur to submit each year to the Commission a report covering activities relating to his mandate.

[See chap. II, sect. A, resolution 2005/38,
and chap. XI.]

11. Torture and other cruel, inhuman or degrading treatment or punishment

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/39 of 19 April 2005, approves the request of the Commission to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to submit an interim report to the General Assembly at its sixtieth session on the overall trends and developments with regard to his mandate and a full report to the Commission at its sixty-second session, including all replies sent by Governments that are received in any of the official languages of the United Nations.

[See chap. II, sect. A, resolution 2005/39,
and chap. XI.]

12. Elimination of violence against women

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/41 of 19 April 2005, requests the Special Rapporteur on violence against women, its causes and consequences, to present an oral report to the General Assembly at its sixtieth session.

[See chap. II, sect. A, resolution 2005/41,
and chap. XII.]

13. Human rights of migrants

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/47 of 19 April 2005, approves the decision of the Commission to extend the mandate of the Special Rapporteur on the human rights of migrants for a period of three years.

It also endorses the Commission's request to the Secretary-General to give the Special Rapporteur all the necessary human and financial assistance for the fulfilment of his/her mandate.

[See chap. II, sect. A, resolution 2005/47,
and chap. XIV.]

14. Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/49 of 20 April 2005, endorses the Commission's recommendation to authorize the Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights to meet for five working days prior to the fifty-seventh session of the Sub-Commission.

The Council also authorizes the Chairperson-Rapporteur of the twenty-second session of the Working Group to submit the report on that session to the Permanent Forum on Indigenous Issues at its fourth session in 2005.

[See chap. II, sect. A, resolution 2005/49,
and chap. XV.]

15. Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/50 of 20 April 2005, authorizes the Working Group established in accordance with Commission resolution 1995/32 of 3 March 1995 to meet for a period of 10 working days prior to the sixty-second session of the Commission, the costs of the meeting to be met from within existing resources.

[See chap. II, sect. A, resolution 2005/50,
and chap. XV.]

16. Human rights and indigenous issues

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/51 of 20 April 2005, requests the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, to submit a report on his activities to the General Assembly at its sixtieth session and to the Commission at its sixty-second session.

[See chap. II, sect. A, resolution 2005/51,
and chap. XV.]

17. Human rights and international solidarity

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/55 of 20 April 2005, endorses the decision of the Commission to appoint an independent expert on human rights and international solidarity for a period of three years to study the issue and prepare a draft declaration on the right of peoples to international solidarity, taking into account the outcomes of all major United Nations and other global summits and ministerial meetings in the economic and social fields and seeking views and contributions from Governments, United Nations agencies, other relevant international organizations and non-governmental organizations.

The Council also approves the request of the Commission to the independent expert to report annually to the Commission on the progress made in the fulfilment of his/her mandate.

The Council also approves the Commission's request to the independent expert to report each year to the Commission on the progress made in the realization of his mandate.

[See chap. II, sect. A, resolution 2005/55,
and chap. XVII.]

18. World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/64 of 20 April 2005, endorses the decision of the Commission to extend the mandate of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance for a period of three years.

The Council also endorses the Commission's request to the Secretary-General to provide the Special Rapporteur with all the necessary human and financial assistance to carry out his mandate efficiently, effectively and expeditiously and to enable him to submit an interim report to the General Assembly at its sixtieth session and to the Commission at its sixty-second session.

[See chap. II, sect. A, resolution 2005/64,
and chap. VI.]

19. Human rights and transnational corporations and other business enterprises

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/69 of 20 April 2005, approves the request of the Commission to the Secretary-General to appoint a special representative on the issue of human rights and transnational corporations and other business enterprises, for an initial period of two years, to undertake the activities set out in that resolution.

The Council also endorses the Commission's request to the United Nations High Commissioner for Human Rights to convene annually, in cooperation with the Special Representative, a meeting with senior executives from companies and experts from a particular sector, such as the pharmaceutical, extractive or chemical industries, to consider, within the mandate of the Special Representative, the specific human rights issues faced by those sectors, to raise awareness and share best practice, and to report on the outcome of the first meeting to the Commission at its sixty-second session.

[See chap. II, sect. A, resolution 2005/69,
and chap. XVII.]

20. Composition of the staff of the Office of the United Nations High Commissioner for Human Rights

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/72 of 20 April 2005, draws the attention of the General Assembly to this resolution in the context of the consideration of the agenda item on human resources management.

The Council further endorses the Commission's:

(*a*) Invitation to the General Assembly and its appropriate subsidiary bodies, inter alia, the Advisory Committee on Administrative and Budgetary Questions, the Committee for Programme and Coordination and the Fifth Committee of the Assembly, to give due consideration to Commission resolution 2005/72 and to the report of the Joint Inspection Unit entitled "Management review of the Office of the United Nations High Commissioner for Human Rights" (JIU/REP/2003/6), transmitted to the Assembly in a note by the Secretary-General (A/59/65-E/2004/48 and Add.1), in particular to any other organization, management, executive direction, structure, administrative, financial and more technical human resources management issues and recommendations contained therein and not addressed in this resolution;

(*b*) Request to the Joint Inspection Unit to assist the Commission on Human Rights to monitor systematically the implementation of Commission resolution 2005/72 and to submit a follow-up comprehensive review of the implementation of the decisions of the Commission and other United Nations intergovernmental bodies regarding the management, programmes and administration of the Office of the United Nations High Commissioner for Human Rights, in particular, with regard to their impact on the recruitment policies and the composition of the staff, to the Commission at its sixty-third session and to the General Assembly at its sixty-first session, containing any concrete proposals for corrective action, if required, for the implementation of the relevant intergovernmental bodies' resolutions, including Commission resolution 2005/72.

[See chap. II, sect. A, resolution 2005/72,
and chap. XVIII.]

21. Advisory services and technical assistance for Burundi

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/75 of 20 April 2005, endorses the decision of the Commission to request the independent expert to continue to study the situation of human rights in Burundi, and to request him to submit an interim report to the General Assembly at its sixtieth session, and to report thereon to the Commission at its sixty-second session.

[See chap. II, sect. A, resolution 2005/75,
and chap. XIX.]

22. Assistance to Sierra Leone in the field of human rights

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/76 of 20 April 2005, endorses the decision of the Commission to request the United Nations High Commissioner for Human Rights to report to the General Assembly at its sixtieth session and to the Commission at its sixty-second session on assistance to Sierra Leone in the field of human rights, with specific reference to the Human Rights Section of the United Nations Mission in Sierra Leone.

[See chap. II, sect. A, resolution 2005/76,
and chap. XIX.]

23. Technical cooperation and advisory services in Nepal

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/78 of 20 April 2005, endorses the decision of the Commission to request the United Nations High Commissioner for Human Rights to submit a report on the human rights situation and the activities of her Office, including technical cooperation, in Nepal to the General Assembly at its sixtieth session and to the Commission at its sixty-second session.

[See chap. II, sect. A, resolution 2005/78,
and chap. XIX.]

24. Rights of persons belonging to national or ethnic, religious and linguistic minorities

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/79 of 21 April 2005, endorses the Commission's request to the United Nations High Commissioner for Human Rights to appoint an independent expert on minority issues for a period of two years, with the mandate:

(*a*) To promote the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, including through consultations with Governments, taking into account existing international standards and national legislation concerning minorities;

(*b*) To identify best practices and possibilities for technical cooperation by the Office of the United Nations High Commissioner for Human Rights at the request of Governments;

(*c*) To apply a gender perspective in his or her work;

(*d*) To cooperate closely, while avoiding duplication, with existing relevant United Nations bodies, mandates, mechanisms as well as regional organizations;

(*e*) To take into account the views of non-governmental organizations on matters pertaining to his or her mandate.

The Council also endorses the request of the Commission to the independent expert to submit annual reports on his/her activities to the Commission, including recommendations for effective strategies for the better implementation of the rights of persons belonging to minorities.

The Council further endorses the Commission's request to the Secretary-General to provide all the necessary resources, from within existing budgetary resources, for the effective fulfilment of the mandate of the independent expert.

The Council endorses the decision of the Commission to amend the mandate of the Working Group on Minorities of the Sub-Commission for the Promotion and Protection of Human Rights with a view to the Working Group holding one session of three consecutive working days annually during the time of the annual session of the Sub-Commission, focusing its work on interactive dialogue with relevant non-governmental organizations and on conceptual support of, and dialogue with, the independent expert, who shall participate as an observer.

[See chap. II, sect. A, resolution 2005/79,
and chap. XIV.]

25. Protection of human rights and fundamental freedoms while countering terrorism

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/80 of 21 April 2005, approves the decision of the Commission to appoint a special rapporteur on the promotion and protection of human rights while countering terrorism for a period of three years with the mandate contained in that resolution.

The Council also approves the request of the Commission to the United Nations High Commissioner for Human Rights to report regularly on the implementation of resolution 2005/80 to the Commission and to the General Assembly.

[See chap. II, sect. A, resolution 2005/80,
and chap. XVII.]

26. Situation of human rights in the Sudan

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/82 of 21 April 2005, approves the Commission's decision to establish the mandate of a special rapporteur on the situation of human rights in the Sudan for one year to monitor the situation of human rights in the Sudan, and to request the Special Rapporteur to submit an interim report to the General Assembly at its sixtieth session and to report to the Commission at its sixty-second session.

The Council also endorses the Commission's request to the Secretary-General to provide the Special Rapporteur with all necessary assistance to enable him or her to discharge his or her mandate fully.

[See chap. II, sect. A, resolution 2005/82,
and chap. XIX.]

27. Assistance to Somalia in the field of human rights

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/83 of 21 April 2005, endorses the decision of the Commission to extend the mandate of the independent expert appointed by the Secretary-General on the situation of human rights in Somalia for a further year and its request to the independent expert to report to the Commission at its sixty-second session.

The Council also approves the request of the Commission to the Secretary-General to continue to provide the independent expert with all necessary assistance in carrying out his mandate and to provide adequate resources, from within existing overall United Nations resources, to fund the activities of the independent expert and the United Nations High Commissioner for Human Rights in providing advisory services and technical assistance.

[See chap. II, sect. A, resolution 2005/83,
and chap. XIX.]

28. Technical cooperation and advisory services in the Democratic Republic of the Congo

The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/85 of 21 April 2005, approves the decision of the Commission:

(*a*) To extend the mandate of the independent expert to provide assistance to the Government of the Democratic Republic of the Congo in the field of human rights for one year and to request the Secretary-General to provide all necessary assistance to enable the independent expert to fulfil his mandate;

(*b*) To request the independent expert to submit a progress report to the General Assembly at its sixtieth session, and to report to the Commission at its sixty-second session;

(*c*) To renew its request to the Secretary-General that he should provide advisory services to the Democratic Republic of the Congo in the field of human rights.

[See chap. II, sect. A, resolution 2005/85,
and chap. XIX.]

29. Corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights

The Economic and Social Council, taking note of Commission on Human Rights decision 2005/104 of 15 April 2005, endorses the decision of the Commission to request the Secretary-General to facilitate the work of the Special Rapporteur to undertake an in-depth study on corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights, by enabling her to attend the meetings of the "Friends of the United Nations Convention against Corruption", which take place in Vienna.

[See chap. II, sect. B, decision 2005/104,
and chap. X.]

30. Study on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights

The Economic and Social Council, taking note of Commission on Human Rights decision 2005/105 of 15 April 2005, endorses the decision of the Commission to appoint Mr. Marc Bossuyt as Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights to undertake a study on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights, based on the working paper prepared by Mr. Emmanuel Decaux (E/CN.4/Sub.2/2004/24), on the comments received and the discussions held at the fifty-sixth session of the Sub-Commission, and in close cooperation with the Committee on Economic, Social and Cultural Rights, and to request the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-seventh session, an interim report at its fifty-eighth session and a final report at its fifty-ninth session.

The Council also approves the Commission's request to the Secretary-General to provide the Special Rapporteur with all the necessary assistance to enable him to carry out his mandate.

[See chap. II, sect. B, decision 2005/105,
and chap. X.]

31. Promotion of the realization of the right to drinking water and sanitation

The Economic and Social Council, taking note of Commission on Human Rights decision 2005/106 of 15 April 2005, endorses the Commission's request that the reports (E/CN.4/Sub.2/2002/10, E/CN.4/Sub.2/2003/WP.3 and E/CN.4/Sub.2/2004/20) of the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights to conduct a detailed study on the relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation, at the national and international levels be published in the official languages of the United Nations.

[See chap. II, sect. B, decision 2005/106,
and chap. X.]

32. Terrorism and human rights

The Economic and Social Council, taking note of Commission on Human Rights decision 2005/107 of 19 April 2005, endorses the Commission's recommendation that a compilation into a comprehensive document of all the reports and documents submitted to date by the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights on terrorism and human rights be published as a United Nations publication as part of the *Human Rights Study Series*.

[See chap. II, sect. B, decision 2005/107,
and chap. XI.]

33. The difficulty of establishing guilt and/or responsibility with regard to crimes of sexual violence

The Economic and Social Council, taking note of Commission on Human Rights decision 2005/108 of 19 April 2005, endorses the decision of the Commission to appoint Ms. Lalaina Rakotoarisoa as Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights entrusted with preparing a detailed study on the difficulties of establishing guilt and/or responsibilities with regard to crimes of sexual violence, and to request the Special Rapporteur to submit to the Sub-Commission a preliminary report at its fifty-seventh session, an interim report at its fifty-eighth session and a final report at its fifty-ninth session.

The Council also approves the Commission's request to the Secretary-General to provide the Special Rapporteur with any assistance she may require to carry out her mandate.

[See chap. II, sect. B, decision 2005/108,
and chap. XII.]

34. Discrimination based on work and descent

The Economic and Social Council, taking note of Commission on Human Rights decision 2005/109 of 19 April 2005, endorses the decision of the Commission to appoint Mr. Yozo Yokota and Ms. Chin-Sung Chung as Special Rapporteurs of the Sub-Commission on the Promotion and Protection of Human Rights with the task of preparing a comprehensive study on discrimination based on work and descent, on the basis of the three working papers submitted to the Sub-Commission on this topic (E/CN.4/Sub.2/2001/16, E/CN.4/Sub.2/2003/24 and E/CN.4/Sub.2/2004/31), the comments made during the sessions of the Sub-Commission at which those working papers were submitted and the provisions of the Sub-Commission resolution 2004/17 of 12 August 2004, and of responses from Governments, national human rights institutions, relevant organs and agencies of the United Nations system and non-governmental organizations to a questionnaire to be elaborated and circulated by the Special Rapporteurs.

The Council also approves the request of the Commission to the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-seventh session, a progress report at its fifty-eighth session and a final report at its fifty-ninth session, and the request to the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Special Rapporteurs with all the assistance necessary to enable them to accomplish this task.

[See chap. II, sect. B, decision 2005/109,
and chap. XIV.]

35. Final report on the study on indigenous peoples' permanent sovereignty over natural resources

The Economic and Social Council, taking note of Commission on Human Rights decision 2005/110 of 20 April 2005, endorses the Commission's recommendation to authorize the Office of the United Nations High Commissioner for Human Rights to convene an expert seminar during the year 2005, to which representatives of indigenous peoples and Governments as well as the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights will be invited, in order to give further attention to and to discuss in detail the many political, legal, economic, social and cultural aspects relating to the study on indigenous peoples' permanent sovereignty over natural resources (E/CN.4/Sub.2/2004/30 and Add.1), as well as to the study entitled "Indigenous peoples and their relationship to land" (E/CN.4/Sub.2/2001/21).

The Council also endorses the Commission's recommendation that the studies of the Special Rapporteur be issued as United Nations publications as part of the *Human Rights Study Series*.

[See chap. II, sect. B, decision 2005/110,
and chap. XV.]

36. Human rights and human responsibilities

The Economic and Social Council, taking note of Commission on Human Rights decision 2005/111 of 20 April 2005, endorses the decision of the Commission to request Mr. Miguel Alfonso Martínez, author of the study on human rights and human responsibilities requested by the Commission in its resolution 2000/63 of 26 April 2000, to prepare, without financial implications, for submission to and discussion at its sixty-second session a new initial version of the pre-draft declaration on human social responsibilities (E/CN.4/2003/105, annex I), taking into account the debate held on this matter during its sixty-first session and, in particular, the comments and suggestions advanced by States and international governmental and non-governmental organizations on the pre-draft declaration, as reflected in the compilation published in the report of the Office of the United Nations High Commissioner for Human Rights (E/CN.4/2005/99).

[See chap. II, sect. B, decision 2005/111,
and chap. XVII.]

37. Enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights

The Economic and Social Council, taking note of Commission on Human Rights decision 2005/113 of 21 April 2005, endorses the decision of the Commission to request the United Nations High Commissioner for Human Rights to organize an open-ended seminar during 2005, from within existing resources, in consultation with the Expanded Bureau of the Commission, as part of the effort to enhance and strengthen the effectiveness of the special procedures and to submit a report on the implementation of decision 2005/113 to the Commission at its sixty-second session.

[See chap. II, sect. B, decision 2005/113,
and chap. XX.]

38. Dates of the sixty-second session of the Commission on Human Rights

The Economic and Social Council, taking note of Commission on Human Rights decision 2005/114 of 21 April 2005, endorses the Commission's decision that the first meeting of the Commission would be held on the third Monday in January with the sole purpose of electing its officers, and that the sixty-second session of the Commission would be held from 13 March to 21 April 2006.

[See chap. II, sect. B, decision 2005/114,
and chap. III.]

39. Organization of work of the sixty-second session of the Commission on Human Rights

The Economic and Social Council, taking note of Commission on Human Rights decision 2005/115 of 21 April 2005, authorizes six fully serviced additional meetings, including summary records, in accordance with rules 29 and 31 of the rules of procedure of the functional commissions of the Council, for the Commission's sixty-second session.

The Council also requests the Chairperson of the sixty-second session of the Commission to make every effort to organize the work of the session within the time normally allotted so that the additional meetings which the Council might authorize would be utilized only if they proved to be absolutely necessary.

[See chap. II, sect. B, decision 2005/115,
and chap. III.]

40. Proposed reform of the Secretary-General in the area of human rights

The Economic and Social Council, taking note of Commission on Human Rights decision 2005/116 of 22 April 2005, endorses the decision of the Commission to establish an open-ended working group, to be chaired by the Chairperson of the sixty-first session of the Commission, to convene a five-day intersessional meeting in June 2005 to reflect coherently on the recommendations on human rights contained in the report of the Secretary-General (A/59/2005), with a view to contributing to the intergovernmental deliberations on the proposed reform of the United Nations in the General Assembly.

The Council also endorses the decision of the Commission to convene a one-day special session to formally adopt the outcome of the open-ended working group and transmit it to the Secretary-General, through the Council.

[See chap. II, sect. B, decision 2005/116,
and chap. III.]

41. Technical cooperation in the field of human rights in Afghanistan

The Economic and Social Council, taking note of the statement of the Chairperson of the Commission on Human Rights, at the 60th meeting of the Commission, on 21 April 2005 on technical cooperation in the field of human rights in Afghanistan, which was adopted by consensus, endorses the Commission's request to the United Nations High Commissioner for Human Rights that she report to the General Assembly at its sixtieth session and to the Commission at its sixty-second session on the situation of human rights in Afghanistan and on the results of technical assistance in the field of human rights, particularly as regards the development of national capacities in the field.

[See chap. XIX.]

42. Situation of human rights in Haiti

The Economic and Social Council, taking note of the statement on the situation of human rights in Haiti made by the Chairperson of the Commission on Human Rights at its 60th meeting, on 21 April 2005, and agreed on by consensus by the Commission, approves the Commission's request to the independent expert to continue his mission and to report at the sixty-second session of the Commission.

[See chap. XIX.]

II. Resolutions and decisions adopted by the Commission at its sixty-first session

A. Resolutions

2005/1. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and reaffirming the need for the scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Guided further by the provisions of the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), and in particular Part I, paragraphs 2 and 3, relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination,

Recalling also Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002 and 1402 (2002) of 30 March 2002,

Recalling further its previous resolutions in this regard, the latest of which is resolution 2004/3 of 8 April 2004,

Reaffirming the right of the Palestinian people to self-determination in accordance with the provisions of the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, as it is a *jus cogens* in international law and a basic condition for achieving a just, lasting and comprehensive peace in the region of the Middle East,

1. *Reaffirms* the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity and to establish their sovereign and independent State;

2. *Reaffirms* its support for the solution of two States living side by side in peace and security, Israel and a viable, democratic, sovereign and territorially contiguous Palestine;

3. *Urges* all Member States and relevant bodies of the United Nations system to support and assist the Palestinian people in the early realization of their right to self-determination;

4. *Decides* to include in the provisional agenda of its sixty-second session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that agenda item.

38th meeting
7 April 2005
[Adopted by a recorded vote of 49 votes to 1,
with 2 abstentions. See chap. V.]

2005/2. The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The Commission on Human Rights,

Recalling all of its relevant resolutions, in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling also the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Convention of the Organization of African Unity on the Elimination of Mercenarism in Africa, as well as the African Union,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, territorial integrity of States, self-determination of peoples, the non-use of force or threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

Reaffirming also that by virtue of the principle of self-determination, all peoples have the right to determine freely their political status and to pursue freely their economic, social and cultural development,

Reaffirming further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

Alarmed and concerned about the danger which the activities of mercenaries constitute to peace and security in developing countries, particularly in Africa and in small States, *Deeply concerned* about the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from mercenary international criminal activities,

Extremely alarmed and concerned about recent mercenary activities in Africa and the threat they pose to the integrity and respect of the constitutional order of these countries,

Convinced that, notwithstanding the way in which mercenaries or mercenary-related activities are used or the form they take to acquire some semblance of legitimacy, they are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of human rights by peoples,

1. *Takes note* of the report of the Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination, Ms. Shaista Shameem (E/CN.4/2005/14), and commends the Special Rapporteur for her valuable work in the fulfilment of her mandate;

2. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

3. *Recognizes* that armed conflicts, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

4. *Urges once again* all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries, and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State, or dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right to self-determination of peoples;

5. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies' intervening in armed conflicts or actions to destabilize constitutional regimes;

6. *Calls upon* all States that have not yet done so to consider taking the necessary action to sign or ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

7. *Welcomes* the cooperation extended by those countries that received a visit by the Special Rapporteur and the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

8. *Invites* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur;

9. *Condemns* recent mercenary activities in Africa and the threat they pose to the integrity and respect of the constitutional order of these countries and the exercise of the right to self-determination of their peoples and commends the Governments of Africa on their collaboration in thwarting these illegal actions;

10. *Calls upon* the international community, in accordance with its obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities, in transparent, open and fair trials;

11. *Decides* to end the mandate of the Special Rapporteur on mercenaries and to establish a working group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, made up of five independent experts, one from each regional group, for a period of three years;

12. *Requests* the working group to meet for five working days before the next session of the Commission in fulfilment of the following mandate:

(*a*) To elaborate and present concrete proposals on possible new standards, general guidelines or basic principles encouraging the further protection of human rights, in particular the right of peoples to self-determination, while facing current and emergent threats posed by mercenaries or mercenary-related activities;

(*b*) To seek opinions and contributions from Governments and intergovernmental and non-governmental organizations on questions relating to its mandate;

(*c*) To monitor mercenaries and mercenary-related activities in all their forms and manifestations in different parts of the world;

(*d*) To study and identify emerging issues, manifestations and trends regarding mercenaries or mercenary-related activities and their impact on human rights, particularly on the right of peoples to self-determination;

(*e*) To monitor and study the effects of the activities of private companies offering military assistance, consultancy and security services on the international market on the enjoyment of human rights, particularly the right of peoples to self-determination, and to prepare draft international basic principles that encourage respect for human rights on the part of those companies in their activities;

13. *Also requests* the working group to continue the work already done by the previous Special Rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of a mercenary drafted by the previous Special Rapporteur, Mr. Enrique Bernales Ballesteros, in his report to the Commission at its sixtieth session (see E/CN.4/2004/15, para. 47);

14. *Further requests* the working group to report annually on the progress made in the fulfilment of its mandate to the Commission and to the General Assembly;

15. *Expresses its appreciation* to the United Nations High Commissioner for Human Rights for convening the third meeting of experts on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and takes note of the report of the meeting (E/CN.4/2005/23);

16. *Requests* the Office of the High Commissioner, as a matter of priority, to publicize the adverse effects of mercenary activities on the right of peoples to self-determination and, when requested and where necessary, to provide advisory services to States that are affected by these activities;

17. *Requests* the working group to take into account, in the discharge of its mandate, that mercenary activities are continuing to occur in many parts of the world and are taking on new forms, manifestations and modalities, and in this regard requests its members to pay particular attention to the impact of the activities of private companies offering military assistance, consultancy and security services on the international market on the enjoyment of human rights by everyone and every people and, in particular, on the exercise of the right of peoples to self-determination;

18. *Urges* all States to cooperate fully with the working group in the fulfilment of its mandate;

19. *Requests* the High Commissioner to provide the working group with all the necessary assistance and support for the fulfilment of its mandate, including through the promotion of cooperation between the working group and other components of the United Nations system that deal with countering mercenary-related activities;

20. *Requests* the working group to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and, in its report to the Commission at its sixty-second session, to report its findings on the use of mercenaries to undermine the enjoyment of human rights and to impede the exercise of the right of peoples to self-determination and to formulate specific recommendations thereon;

21. *Decides* to consider at its sixty-second session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the same agenda item;

22. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 1.]

38th meeting
7 April 2005
[Adopted by a recorded vote of 35 votes to 15,
with 2 abstentions. See chap. V.]

2005/3. Combating defamation of religions

The Commission on Human Rights,

Recalling that all States have pledged themselves, under the Charter of the United Nations, to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling also its resolutions 1999/82 of 30 April 1999, 2000/84 of 26 April 2000, 2001/4 of 18 April 2001, 2002/9 of 15 April 2002, 2003/4 of 14 April 2003 and 2004/6 of 13 April 2004,

Recalling further the United Nations Millennium Declaration adopted by the General Assembly on 8 September 2000, welcoming the resolve expressed in the Declaration to take measures to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies, and looking forward to its effective implementation at all levels, including in the context of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1),

Welcoming the proclamation by the General Assembly in its resolution 56/6 of 9 November 2001 of the Global Agenda for Dialogue among Civilizations and inviting States, the organizations and bodies of the United Nations system, within existing resources, other international and regional organizations and civil societies to contribute to the implementation of the Programme of Action contained in that resolution,

Welcoming also the progress achieved in the follow-up to the Durban Declaration and Programme of Action,

Noting with regret the cancellation of the meeting entitled "Civilization and Harmony: Values and Mechanisms of the Global Order", which was to be held in Turkey in 2004 as a follow-up to the Organization of the Islamic Conference-European Union Joint Forum held in Istanbul in February 2002, underscoring that such initiatives to deepen dialogue and reinforce understanding among the two biggest groups of nations of Eurasia and Africa will be continued,

Reaffirming that discrimination against human beings on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations,

Convinced that religious and cultural diversity in a globalizing world needs to be used as a vehicle for creativity, dynamism and promoting social justice, tolerance and understanding as well as international peace and security, and not as a rationale for a new ideological and political confrontation,

Recognizing the valuable contributions of all religions to modern civilization and the contribution that dialogue among civilizations can make to an improved awareness and understanding of the common values shared by all humankind, *Reaffirming* that cultural diversity is a cherished asset for the advancement and welfare of humanity at large and should be valued, enjoyed, genuinely accepted and embraced as a permanent feature that enriches our societies,

Emphasizing that States, non-governmental organizations, religious bodies and the media have an important role to play in promoting tolerance and freedom of religion and belief through education that teaches tolerance and respect for religion and belief,

Alarmed at the continuing negative impact of the events of 11 September 2001 on Muslim minorities and communities in some non-Muslim countries and the negative projection of Islam in the media, and the introduction and enforcement of laws that specifically discriminate against and target Muslims,

Alarmed also at the serious instances of intolerance, discrimination and acts of violence based on religion or belief, intimidation and coercion motivated by extremism, religious or otherwise, occurring in many parts of the world and threatening the enjoyment of human rights and fundamental freedoms,

Noting with concern that defamation of religions is among the causes of social disharmony and leads to violations of human rights,

Noting with deep concern the increasing trend in recent years of statements attacking religions, Islam and Muslims in particular, especially in human rights forums,

1. *Expresses deep concern* at negative stereotyping of religions and manifestations of intolerance and discrimination in matters of religion or belief still in evidence in some regions of the world;

2. *Strongly deplores* physical attacks and assaults on businesses, cultural centres and places of worship of all religions as well as targeting of religious symbols;

3. *Notes with deep concern* the intensification of the campaign of defamation of religions, and the ethnic and religious profiling of Muslim minorities, in the aftermath of the tragic events of 11 September 2001;

4. *Expresses deep concern* that Islam is frequently and wrongly associated with human rights violations and terrorism;

5. *Also expresses deep concern* at programmes and agendas pursued by extremist organizations and groups aimed at the defamation of religions, in particular when supported by Governments;

6. *Deplores* the use of the print, audio-visual and electronic media, including the Internet, and any other means to incite acts of violence, xenophobia or related intolerance and discrimination towards Islam or any other religion;

7. *Recognizes* that in the context of the fight against terrorism and the reaction to counter-terrorism measures, defamation of religions becomes an aggravating factor that contributes to the denial of fundamental rights and freedoms of target groups, as well as their economic and social exclusion;

8. *Stresses* the need to combat effectively defamation of all religions, Islam and Muslims in particular, especially in human rights forums;

9. *Urges* States to take resolute action to prohibit the dissemination through political institutions and organizations of racist and xenophobic ideas and material aimed at any religion or its followers that constitute incitement to discrimination, hostility or violence;

10. *Also urges* States to provide, within their respective legal and constitutional systems, adequate protection against acts of hatred, discrimination, intimidation and coercion resulting from defamation of religions, to take all possible measures to promote tolerance and respect for all religions and their value systems, and to complement legal systems with intellectual and moral strategies to combat religious hatred and intolerance;

11. *Further urges* all States to ensure that all public officials, including members of law enforcement bodies, the military, civil servants and educators, in the course of their official duties, respect different religions and beliefs and do not discriminate on the grounds of religion or belief, and that necessary and appropriate education or training is provided;

12. *Underscores* the need to combat defamation of religions by strategizing and harmonizing actions at local, national, regional and international levels through education and awareness-raising;

13. *Urges* States to ensure equal access to education for all, in law and in practice, including access to free primary education for all children, both girls and boys, and access for adults to lifelong learning and education based on respect for human rights, diversity and tolerance without discrimination of any kind, and to refrain from any legal or other measures leading to the imposition of racial segregation in access to schooling;

14. *Calls upon* the international community to initiate a global dialogue to promote a culture of tolerance and peace based on respect for human rights and religious diversity and urges States, non-governmental organizations, religious bodies and the print and electronic media to support and promote such a dialogue;

15. *Calls upon* the United Nations High Commissioner for Human Rights to promote and include human rights aspects in the dialogue among civilizations, inter alia through:

(*a*) Integrating them into topical seminars and special debates on the positive contributions of cultures, as well as religious and cultural diversity, including through educational programmes, particularly the World Programme for Human Rights Education proclaimed by the General Assembly in its resolution 59/113 of 10 December 2004;

(*b*) Collaboration by the Office of the High Commissioner with other relevant international organizations in holding joint conferences designed to encourage this dialogue and promote understanding of the universality of human rights and their implementation at various levels;

16. *Requests* the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to continue to examine the situation of Muslims and Arab peoples in various parts of the world, the discrimination faced by them with

regard to access to justice, political participation, respect of cultures, physical assaults and attacks against their places of worship, cultural centres, businesses and properties in the aftermath of the events of 11 September 2001 and to report on his findings to the Commission at its sixty-second session, and to make recommendations to improve their situation;

17. *Requests* the High Commissioner to report to the Commission at its sixty-second session on the implementation of the present resolution;

18. *Decides* to consider this matter at its sixty-second session, under the same agenda item.

44th meeting
12 April 2005
[Adopted by a recorded vote of 31 to 16,
with 5 abstentions. See chap. VI.]

2005/4. The right to development

The Commission on Human Rights,

Recalling the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986, which confirmed the right to development as an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations, and the individual as the central subject and beneficiary of development,

Stressing that in General Assembly resolution 48/141 of 20 December 1993, the Assembly decided that the responsibility of the United Nations High Commissioner for Human Rights, among others, shall be to promote and protect the realization of the right to development and to enhance support from relevant bodies of the United Nations system for this purpose,

Recalling all its previous resolutions on the right to development, in particular resolution 1998/72 of 22 April 1998 in which it referred to the urgent need to make further progress towards the realization of the right to development as set out in the Declaration,

Recognizing that the open-ended working group established to monitor and review progress made in the promotion and implementation of the right to development is the only global forum mandated to monitor and review progress made in the promotion and implementation of this right at the national and international levels, providing recommendations thereon and further analysing obstacles to its full enjoyment,

Recognizing also the valuable contribution made by the independent expert on the right to development through his series of reports to the Working Group on the Right to Development which provide valuable input for the implementation of the right to development,

Reaffirming the agreed conclusions of the third session of the Working Group (see E/CN.4/2002/28/Rev.1) and the need for their follow-up and effective implementation, *Reaffirming also* the agreed conclusions and recommendations adopted by consensus by the Working Group at its fifth session (E/CN.4/2004/23 and Corr.1, paras. 41-51),

Welcoming the establishment of the high-level task force on the implementation of the right to development established within the framework of the Working Group with the objective of assisting the Working Group in fulfilling its mandate as contained in paragraph 10 (*a*) of Commission resolution 1998/72 comprising five experts with practical experience related to the implementation of the right to development, and high-level representatives of United Nations agencies, funds and programmes, multilateral financial and development institutions and the World Trade Organization,

Recognizing the broad participation by States, international organizations and non-governmental organizations at the sixth session of the Working Group on the Right to Development and welcoming their active participation in enhancing the realization of the Declaration on the Right to Development as well as the adoption by consensus of the Working Group's conclusions and recommendations (E/CN.4/2005/25, paras. 32-58),

Taking note of the report of the United Nations High Commissioner for Human Rights (E/CN.4/2005/24),

1. *Recognizes* the importance of maintaining political will and commitment on the part of all members of the Working Group on the Right to Development and welcomes their ongoing cooperation towards the realization of its mandate;

2. *Welcomes* the convening of the first meeting of the high-level task force on the implementation of the right to development from 13 to 17 December 2004 and expresses its appreciation to the task force for the work it has undertaken;

3. *Also welcomes* the active participation of all members of the task force, including the five regional experts and the representatives of the United Nations Development Programme, the United Nations Children's Fund, the United Nations Conference on Trade and Development, the International Monetary Fund, the World Bank and the World Trade Organization;

4. *Endorses* the conclusions and recommendations adopted by the Working Group on the Right to Development at its sixth session as reflected in its report and calls for their immediate, full and effective implementation;

5. *Notes with appreciation* that the task force, at its next meeting, will examine Millennium Development Goal 8 on a global partnership for development and suggest criteria for its periodic evaluation with the aim of improving the effectiveness of global partnership with regard to the realization of the right to development;

6. *Requests* the Office of the High Commissioner to provide all necessary administrative support and financial and human resources to the task force on the implementation of the right to development;

7. *Notes with concern* that the Sub-Commission on the Promotion and Protection of Human Rights has not submitted the concept document requested by the Commission in its resolution 2003/83 of 25 April 2003 establishing options and their feasibility for the

implementation of the right to development, inter alia an international legal standard of a binding nature, guidelines on the implementation of the right to development and principles for development partnership, based on the Declaration on the Right to Development, including issues which any such instrument might address, for consideration and determination of the feasibility of these options, and requests the Sub-Commission, without further delay, to submit the concept document at the sixty-second session of the Commission;

8. *Takes note* of decision 2004/104 of 9 August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights relating to the right to development;

9. *Requests* the Office of the High Commissioner to continue to provide all necessary administrative support and financial and human resources to the Sub-Commission in its work on the concept document;

10. *Requests* the High Commissioner, in mainstreaming the right to development, to undertake effectively activities aimed at strengthening the global partnership for development between Member States, development agencies and the international development, financial and trade institutions, and to reflect these activities in detail in her report to the Commission at its sixty-second session;

11. *Decides* to renew the mandate of the Working Group on the Right to Development for one year and to convene its seventh session before the sixty-second session of the Commission for a period of 10 working days, 5 of which shall be allocated to the second meeting of the task force to be held well in advance of the session of the Working Group;

12. *Also decides* to review the progress of the implementation of the present resolution as a matter of priority at its sixty-second session;

13. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 2.]

44th meeting
12 April 2005
[Adopted by a recorded vote of 48 to 2,
with 2 abstentions. See chap. VII.]

2005/5. Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant human rights instruments, *Recalling* the provisions of its resolution 2004/16 of 16 April 2004,

Recalling also the Charter of the Nürnberg Tribunal and the Judgement of the Tribunal, including all the provisions of the Judgement related to the SS organization and all its integral parts, including the Waffen SS,

Recalling further the relevant provisions of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001 (A/CONF.189/12 and Corr.1), in particular paragraph 2 of the Declaration and paragraph 86 of the Programme of Action,

Recalling the study undertaken by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/2004/61) and taking note of his report (E/CN.4/2005/18, Add.1 and Add.1/Corr.1 and Add.2-6),

Alarmed, in this regard, at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups,

1. *Reaffirms* the provision of the Durban Declaration, in which States condemned the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist prejudice and stated that these phenomena could never be justified in any instance or in any circumstances;

2. *Expresses deep concern* over the fact of the glorification of the Nazi movement, including through erecting monuments and memorials as well as holding public demonstrations in the name of glorification of the Nazi past, the Nazi movement and neo-Nazism;

3. *Stresses* that the practices described above do injustice to the memory of the countless victims of crimes against humanity committed in the Second World War, especially those committed by the SS organization, and poison the minds of young people, in particular in the year of the sixtieth anniversary of victory in the Second World War and the liberation of Auschwitz and other concentration camps, and that these practices may be incompatible with the obligations of States Members of the United Nations under its Charter and are incompatible with the goals and principles of the Organization;

4. *Also stresses* that such practices fuel contemporary forms of racism, racial discrimination, xenophobia and related intolerance and contribute to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups;

5. *Notes with concern* the increase in the number of racist incidents in several countries and the rise of skinhead groups, which have been responsible for many of these incidents, as noted by the Special Rapporteur;

6. *Emphasizes* the need to take the necessary measures to put an end to the practices described above and calls upon States to take more effective measures to combat these phenomena and the extremist movements, which pose a real threat to democratic values;

7. *Requests* the Special Rapporteur to continue to reflect on this issue and to make relevant recommendations in his report to the Commission at its sixty-second session, to seek and to take into account in this regard the views of Governments as well as non-governmental organizations;

8. *Invites* Governments as well as non-governmental organizations to cooperate fully with the Special Rapporteur in the exercise of the aforementioned task;

9. *Decides* to consider this issue at its sixty-second session under the same agenda item.

49th meeting
14 April 2005
[Adopted by a recorded vote of 46 to none,
with 4 abstentions. See chap. VI.]

2005/6. Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan

The Commission on Human Rights,

Guided by the principles of the Charter of the United Nations, and affirming the inadmissibility of the acquisition of territory by force,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms, as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Recalling relevant resolutions of the Commission, the Security Council and the General Assembly, most recently General Assembly resolution 59/123 of 10 December 2004 in which it reaffirmed, inter alia, the illegality of the Israeli settlements in the occupied territories,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable de jure to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem and the Syrian Golan, and recalling the declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, held in Geneva on 5 December 2001,

Considering that the transfer by the occupying Power of parts of its own civilian population into the territory it occupies constitutes a breach of the Fourth Geneva Convention and relevant provisions of customary law, including those codified in Additional Protocol I to the Geneva Conventions of 12 August 1949,

Noting the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (see A/ES-10/273 and Corr.1), and its conclusion that "the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law", *Taking note* of General Assembly resolution ES-10/15 of 20 July 2004,

Recalling its attachment to the implementation by both parties of their obligations under the Quartet* road map to a permanent two-State solution to the Israeli-Palestinian conflict (S/2003/529, annex), which was endorsed by the Security Council in resolution 1515 (2003) of 19 November 2003, and noting in particular the road map's call for a freeze on all settlement activity,

Expressing its concern that continuing Israeli settlement activity undermines the realization of a two-State solution,

Noting the potential of the announced withdrawals by Israel, the occupying Power, from the Gaza Strip and from certain parts of the northern West Bank, which can represent a step towards the implementation of the Quartet road map and a two-State solution, provided that they take place within the context of the road map and that they should not involve transfer of settlement activity to the West Bank, that there should be an organized and negotiated handover of responsibility to the Palestinian Authority and that Israel should facilitate the rehabilitation and reconstruction of the Gaza Strip,

Expressing grave concern about the continuing construction, contrary to international law, by Israel of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem, and expressing its concern in particular about the route of the wall in departure from the Armistice Line of 1949, which could prejudge future negotiations and make the two-State solution physically impossible to implement and which is causing the Palestinian people further humanitarian hardship,

Deeply concerned that the wall's route has been traced in such a way as to include the great majority of the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem,

Expressing its concern at the failure of the Government of Israel to cooperate fully with the relevant United Nations mechanisms, in particular the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,

1. *Welcomes* the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/2005/29 and Add.1) and calls upon the Government of Israel to cooperate with the Special Rapporteur to allow him fully to discharge his mandate;

2. *Welcomes* the understandings by both parties at the summit held in Sharm El Sheikh, Egypt, on 8 February 2005, to stop all acts of violence as well as the positive steps taken by them in fulfilment of these understandings and urges them to enhance a new spirit of cooperation and to promote an atmosphere conducive to the establishment of peace and coexistence;

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* The United States of America, the Russian Federation, the European Union and the United Nations.

3. *Expresses its grave concern* at:

(*a*) The continuing Israeli settlement and related activities, in violation of international law, including the expansion of settlements, the expropriation of land, the demolition of houses, the confiscation and destruction of property, the expulsion of Palestinians and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem and the Syrian Golan, and constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, and in particular article 49 of that Convention; settlements are a major obstacle to the establishment of a just and comprehensive peace and to the creation of an independent, viable, sovereign and democratic Palestinian State;

(*b*) The new construction plan by the Government of Israel announced on 21 March 2005 for a project of 3,500 additional housing units in Maale Adumim and the planned expansion of two other settlement blocks in the West Bank, and deplores the negative impact of these plans on the confidence between the two parties at a time when a genuine window of opportunity exists to relaunch the peace process, as the continuation of settlement activities by Israel, the occupying Power, would be a violation of international humanitarian law, the relevant United Nations resolutions and Israeli commitments in the context of the road map;

(*c*) The continued closures of and within the Occupied Palestinian Territory and the restriction of the freedom of movement of people and goods, including the extensive curfews imposed for long periods of time, which do not contribute to restoring confidence and reinforcing the ongoing dialogue between the two parties, and have caused an extremely precarious humanitarian situation for the civilian population as well as impaired the economic and social rights of the Palestinian people;

(*d*) The continued construction, contrary to international law, of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem;

4. *Takes note with satisfaction* of the resumption of the dialogue between the parties and the steps forward taken, and urges the Government of Israel:

(*a*) To reverse the settlement policy in the occupied territories, including East Jerusalem and the Syrian Golan and, as a first step towards their dismantlement, to stop immediately the expansion of the existing settlements, including "natural growth" and related activities;

(*b*) To prevent any new installation of settlers in the occupied territories;

5. *Demands* that Israel implement the recommendations regarding the settlements made by the then United Nations High Commissioner for Human Rights in her report to the Commission at its fifty-seventh session on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan (E/CN.4/2001/114);

6. *Calls upon* Israel to take and implement serious measures, including confiscation of arms and enforcement of criminal sanctions, with the aim of preventing acts of violence by Israeli settlers, and other measures to guarantee the safety and protection of the Palestinian civilians and Palestinian properties in the Occupied Palestinian Territory, including East Jerusalem;

7. *Demands* that Israel, the occupying Power, comply fully with its legal obligations, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice;

8. *Urges* the parties to seize the opportunity offered by the current political context to give renewed impetus to the peace process and to implement fully the road map endorsed by the Security Council in resolution 1515 (2003), with the aim of reaching a comprehensive political settlement in accordance with the resolutions of the Council, including resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, and other relevant United Nations resolutions, the principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo Accords and subsequent agreements, which will allow two States, Israel and Palestine, to live in peace and security;

9. *Decides* to continue its consideration of this question at its sixty-second session.

49th meeting
14 April 2005
[Adopted by a recorded vote of 39 votes to 2,
with 12 abstentions. See chap. VIII.]

2005/7. Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem

The Commission on Human Rights,

Recalling the applicability of the Geneva Convention relative to the Protection of Civil Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the relevant resolutions of the Security Council and the Commission on Human Rights,

Taking note of the recent reports of the Special Rapporteur of the Commission on the situation of human rights in the Palestinian territories occupied by Israel since 1967 (A/59/256 and E/CN.4/2005/29 and Add.1),

Expressing grave concern about the extrajudicial executions and the use of force by Israel against the Palestinian civil population, inflicting heavy casualties, and the continued targeting of schoolchildren, which led to loss of lives and fatal injuries,

Condemning the denial by Israel of access to hospitals for Palestinian pregnant women, which forces them to give birth at checkpoints under hostile, inhumane and humiliating conditions, *Asserting* that the punitive measures imposed by Israel, the occupying Power, on the Palestinian civil population, including collective punishment, border closures and severe restrictions on the movement of people and goods, arbitrary arrests and detentions, destruction of homes and vital infrastructure, including religious, educational, cultural and historical sites, led to a steep deterioration in the socio-economic conditions, perpetuating a dire humanitarian crisis throughout the Occupied Palestinian Territory, including East Jerusalem, and affirming that these punitive measures violate the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Noting the advisory opinion rendered on 9 July 2004 by the International Court of Justice (see A/ES-10/273 and Corr.1) and General Assembly resolution ES-10/15 of 20 July 2004, and reaffirming the principle of the inadmissibility of the acquisition of territory by force,

Noting in particular the Court's reply, especially that the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law,

Welcoming the decision of the Secretary-General to establish a register of damage caused by the construction of the wall and its associated regime in the Occupied Palestinian Territory, including East Jerusalem,

Condemning the continued systematic violations of the human rights of the Palestinian people by Israel, the occupying Power, arising from the settlements, the construction of the wall inside the Occupied Palestinian Territory in departure from the Armistice Line of 1949, the destruction of property and all other actions designed to change the legal status, geographical nature and demographic composition of the Occupied Palestinian Territory, including East Jerusalem,

Welcoming the recent free and democratic Palestinian presidential election in the Occupied Palestinian Territory, including East Jerusalem,

Affirming that the obstructive measures taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, during the Palestinian presidential campaign and election, including arbitrary arrest, detention of candidates and denying access to polling stations, constitute a breach of the principles and provisions of international covenants and instruments related to the right to self-determination (see Articles 1 and 55 of the Charter of the United Nations; article 1 of the International Covenant on Civil and Political Rights and article 1 of the International Covenant on Economic, Social and Political Rights; General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948; Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002 and 1402 (2002) of 30 March 2002; Commission resolution 2003/3 of 14 April 2003 and paragraphs 2 and 3 of Part I of the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23)),

Expressing deep concern that thousands of Palestinians, including children, continue to be held in Israeli prisons and detention centres under harsh conditions impairing their well-being, and also expressing deep concern about their ill-treatment, harassment and reports of torture, *Aware* of the responsibility of the international community to promote human rights and ensure respect for international law,

Stressing the need for full compliance with the Israeli-Palestinian agreements reached within the context of the Middle East peace process and the implementation of the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict,

Also stressing the necessity for the full implementation of all relevant United Nations resolutions,

1. *Reiterates* that all actions and punitive measures taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, and contrary to the relevant resolutions of the Security Council, are illegal and have no validity, and thereby demands that Israel, the occupying Power, comply fully with its provisions and cease immediately all measures and actions taken in violation and in breach of the Convention, including extrajudicial executions;

2. *Condemns* the use of force by the Israeli occupying forces against Palestinian civilians, resulting in extensive loss of life, vast numbers of injuries and massive destruction of homes, properties, agricultural lands and vital infrastructure;

3. *Urges* all Member States signatories to the Fourth Geneva Convention to express the inadmissibility of the ongoing violation of the rights of Palestinian civilians, especially women and children, stipulated in these instruments, and to demand their effective observance by Israel, the occupying Power;

4. *Requests* the United Nations High Commissioner for Human Rights to address the issue of Palestinian pregnant women giving birth at Israeli checkpoints owing to denial of access by Israel to hospitals, with a view to ending this inhumane Israeli practice, and to report thereon to the General Assembly at its sixtieth session and the Commission at its sixty-second session;

5. *Calls upon* Member States to take the necessary measures that fulfil their obligations under the instruments of international human rights law and international humanitarian law to ensure that Israel ceases killing, targeting, arresting and harassing Palestinians, particularly women and children;

6. *Requests* the High Commissioner to demand, in accordance with her mandate, the immediate release of the Palestinian detainees, including women, children and the sick, and the investigation of reported cases of torture, harassment or ill-treatment and the bringing to justice of Israeli officers involved in the abuse of detainees;

7. *Requests* Israel, the occupying Power, to facilitate the forthcoming Palestinian legislative elections in the Occupied Palestinian Territory, including East Jerusalem, and demands that it refrain from all acts that interfere in, obstruct or impede these elections;

8. *Demands* that Israel, the occupying Power, comply with its legal obligations under international law, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice and as demanded in General Assembly resolutions ES-10/15 and ES-10/13 of 21 October 2003, and that it cease the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, dismantle forthwith the structure situated therein, repeal or render ineffective all legislative and regulatory acts relating thereto, and make reparation for all damage caused by the construction of the wall;

9. *Calls for* the boycott of firms involved in the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;

10. *Stresses* the need to preserve the territorial integrity of all the Occupied Palestinian Territory and to guarantee the freedom of movement of persons and goods within the Palestinian territory, including the removal of restrictions on movement into and from East Jerusalem, and the freedom of movement to and from the outside world as a sine qua non for resolving the humanitarian crisis throughout the Occupied Palestinian Territory, restoring the livelihoods of the Palestinian people and rebuilding their ravaged institutions and economy;

11. *Requests* the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 to report to the General Assembly at its sixtieth session and to the Commission at its sixty-second session, in compliance with his mandate;

12. *Decides* to continue its consideration of this question at its sixty-second session.

49th meeting
14 April 2005
[Adopted by a recorded vote of 29 votes to 10,
with 14 abstentions. See chap. VIII.]

2005/8. Human rights in the occupied Syrian Golan

The Commission on Human Rights,

Deeply concerned at the suffering of the Syrian citizens in the occupied Syrian Golan due to the violation of their fundamental and human rights since the Israeli military occupation of 1967,

Recalling Security Council resolution 497 (1981) of 17 December 1981,

Recalling also all relevant General Assembly resolutions, including the latest, resolution 59/33 of 1 December 2004, in which the Assembly declared that Israel had failed to comply with Security Council resolution 497 (1981) and demanded that Israel withdraw from all the occupied Syrian Golan,

Reaffirming once more the illegality of Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan, which has resulted in the effective annexation of that Syrian territory, *Reaffirming* the principle of non-acquisition of territory by force in accordance with the Charter of the United Nations, the principles of international law and Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973,

Taking note with deep concern of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (see A/59/381) and, in this connection, deploring the Israeli settlement in the occupied Arab territories, including in the occupied Syrian Golan, and regretting Israel's constant refusal to cooperate with and to receive the Special Committee,

Guided by the relevant provisions of the Charter, international law and the Universal Declaration of Human Rights, and reaffirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the relevant provisions of the Hague Conventions of 1899 and 1907 to the occupied Syrian Golan,

Reaffirming the importance of the peace process which started in Madrid on the basis of Security Council resolutions 242 (1967) and 338 (1973) and the principle of land for peace, and expressing its grave concern over the halt in the peace process in the Middle East, and its hope that peace talks will be resumed on the basis of the full implementation of Council resolutions 242 (1967) and 338 (1973) for the establishment of a just and comprehensive peace in the region,

Reaffirming also its previous relevant resolutions, the most recent being resolution 2004/8 of 15 April 2004,

1. *Calls upon* Israel, the occupying Power, to comply with the relevant resolutions of the General Assembly and of the Security Council, in particular resolution 497 (1981), in which the Council, inter alia, decided that the Israeli decision to impose its laws, jurisdiction and administration on the occupied Syrian Golan is null and void and without international legal effect, and demanded that Israel should rescind forthwith its decision;

2. *Also calls upon* Israel to desist from changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan, and emphasizes that the displaced persons of the population of the occupied Syrian Golan must be allowed to return to their homes and to recover their properties;

3. *Further calls upon* Israel, the occupying Power, to desist from imposing Israeli citizenship and Israeli identity cards on the Syrian citizens in the occupied Syrian Golan, to release all detained citizens in the occupied Syrian Golan, to desist from its repressive measures against them and from all other practices mentioned in the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories;

4. *Determines* that all legislative and administrative measures and actions taken or to be taken by Israel, the occupying Power, that purport to alter the character and legal status of the occupied Syrian Golan are null and void, constitute a flagrant violation of international law and of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and have no legal effect;

5. *Calls once again upon* Member States not to recognize any of the legislative or administrative measures and actions referred to above;

6. *Requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission at its sixty-second session;

7. *Decides* to include in the provisional agenda of its sixty-second session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

49th meeting
14 April 2005
[Adopted by a recorded vote of 32 votes to 2,
with 19 abstentions. See chap. VIII.]

2005/9. Cooperation with representatives of United Nations human rights bodies

The Commission on Human Rights,

Reiterating its concern at the continued reports of intimidation and reprisals against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies,

Deeply concerned at the continued seriousness of such reported reprisals and that victims suffer violations of the most fundamental human rights, including the right to life, liberty and security of person, as well as the right to freedom from torture and cruel, inhuman or degrading treatment,

Also concerned at reports about incidents in which private individuals have been hampered in their efforts to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms,

Recalling its resolution 2004/15 of 15 April 2004 and taking note with interest of the report of the Secretary-General on the question (E/CN.4/2005/31 and Add.1),

1. *Urges* Governments to refrain from all acts of intimidation or reprisal against:

(*a*) Those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them;

(*b*) Those who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose;

(*c*) Those who submit or have submitted communications under procedures established by human rights instruments;

(*d*) Those who are relatives of victims of human rights violations;

2. *Condemns* all acts of intimidation or reprisal by Governments against private individuals and groups who seek to cooperate with the United Nations and representatives of human rights bodies;

3. *Calls upon* States to ensure adequate protection from intimidation, violence and persecution for individuals and members of groups who seek to cooperate with the United Nations and representatives of its human rights bodies, and reaffirms the duty of all States to end impunity for such actions by bringing the perpetrators, including accomplices, to justice in accordance with international standards and providing an effective remedy for their victims;

4. *Requests* all representatives of United Nations human rights bodies, as well as treaty bodies monitoring the observance of human rights, to continue to take urgent steps, in conformity with their mandates, to help prevent the occurrence of such intimidation and reprisals and the hampering of access to United Nations human rights procedures in any way;

5. *Also requests* such representatives and treaty bodies to continue to include in their respective reports to the Commission on Human Rights, the Sub-Commission on the Promotion and Protection of Human Rights or the General Assembly a reference to allegations of intimidation or reprisal and of hampering of access to United Nations human rights procedures, as well as an account of action taken by them in this regard;

6. *Requests* the Secretary-General to draw the attention of such representatives and treaty bodies to the present resolution;

7. *Invites* the Secretary-General to submit to the Commission at its sixty-second session a report containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against the persons referred to in paragraph 1 above;

8. *Decides* to consider the question again at its sixty-second session.

50th meeting
14 April 2005
[Adopted without a vote. See chap. IX.]

2005/10. Situation of human rights in Myanmar

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other human rights instruments, *Reaffirming* that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various international instruments in the field,

Aware that Myanmar is a party to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions, of 12 August 1949, on the protection of victims of war, as well as the Convention concerning Forced or Compulsory Labour, 1930 (No. 29) and the Convention concerning Freedom of Association and Protection of the Right to Organize, 1948 (No. 87) of the International Labour Organization,

Recalling its previous resolutions on the subject, the most recent of which is resolution 2004/61 of 21 April 2004, and those of the General Assembly, the most recent of which is resolution 59/263 of 23 December 2004,

Bearing in mind Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security, 1265 (1999) of 17 September 1999 and 1296 (2000) of 19 April 2000 on the protection of civilians in armed conflict and 1539 (2004) of 22 April 2004 on children in armed conflict,

Bearing in mind the report of the Secretary-General on children and armed conflict (A/59/695-S/2005/72),

Recalling resolution I adopted by the International Labour Organization at its eighty-eighth session, on 14 June 2000, concerning the practice of forced or compulsory labour in Myanmar,

Affirming that the will of the people is the basis of the authority of government and that the will of the people of Myanmar was clearly expressed in the elections held in 1990,

Affirming also that the establishment of a genuine democratic government in Myanmar is essential for the realization of all human rights and fundamental freedoms,

Recognizing that good governance, democracy, the rule of law and respect for human rights are essential to achieve sustainable development and economic growth, and that good governance includes the idea of transparent, responsible, accountable and participatory government at all levels,

Taking note of the reconvening of the National Convention on 17 February 2005, without the participation of the democratic opposition, and the suspension of the Convention on 31 March, while recognizing that the Government of Myanmar has announced that it would reconvene at the end of 2005,

1. *Welcomes*:

(*a*) The reports of both the Special Rapporteur on the situation of human rights in Myanmar (E/CN.4/2005/36) and of the Secretary-General (A/59/269 and E/CN.4/2005/130);

(*b*) The personal engagement and statements of the Secretary-General with regard to the situation of Myanmar;

(*c*) The efforts by the Government of Myanmar to release prisoners, and takes note of the recent release of some 19,906 prisoners, while noting that only 110 of them were political prisoners, as indicated by the Special Rapporteur in his statement to the Commission on 29 March 2005;

(*d*) The establishment by the Government of a committee for the prevention of military recruitment of under-age soldiers and the adoption in November 2004 of an outline plan of action to address the issues of under-age recruitment and child soldiers;

(*e*) The ratification by Myanmar on 30 March 2004 of the United Nations Convention against Transnational Organized Crime and two of its Protocols, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention;

(*f*) The negotiations to conclude a ceasefire agreement between the Government of Myanmar and the Karen National Union, while noting that there have been a limited number of contacts since October 2004;

(*g*) The continued cooperation of Myanmar with the International Committee of the Red Cross;

(*h*) The access to the eastern part of Myanmar by the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Refugees;

2. *Takes note* of the efforts of the Government of Myanmar to meet the HIV/AIDS challenge, and calls upon it to enhance its efforts in this regard and to support the effective implementation of the Joint Plan of Action on HIV/AIDS in cooperation with the relevant international agencies;

3. *Expresses its grave concern* at:

(*a*) The ongoing systematic violation of human rights, including civil, political, economic, social and cultural rights, of the people of Myanmar, in particular discrimination and violations suffered by persons belonging to ethnic minorities, women and children, especially in non-ceasefire areas;

(*b*) The fact that the Special Rapporteur on the situation of human rights in Myanmar as well as the Special Envoy of the Secretary-General for Myanmar have been unable to visit the country for more than a year, despite repeated requests;

(*c*) The ongoing systematic and consistent harassment of members of the National League for Democracy and other opposition activists, in particular the events of May 2003, and the fact that no full and independent inquiry has been initiated despite repeated requests;

(*d*) The extension of the house arrest of National League for Democracy General Secretary Daw Aung San Suu Kyi and her deputy, U Tin Oo, for another year and the persistent denial of their human rights and fundamental freedoms, including freedom of movement and association, as well as the continued detention of other senior leaders of the National League for Democracy and of the leadership of other political parties or ethnic minorities, particularly the recent detention of U Khun Htun Oo and U Sai Nyunt Lwin, Chairman and General Secretary respectively of the Shan Nationalities League for Democracy, and Sao Hso Ten, Chairman of the Shan State Peace Council;

(*e*) The continuing restrictions placed on the National League for Democracy and other political parties which prevented them from participating in the recently reconvened National Convention;

(*f*) Extrajudicial killings, rape and other forms of sexual violence persistently carried out by members of the armed forces, continuing use of torture, renewed instances of political arrests and continuing imprisonment and other detentions, including of prisoners whose sentences have expired; prisoners held incommunicado while awaiting trial; forced relocation; destruction of livelihoods and confiscations of land by the armed forces; forced labour, including child labour; trafficking in persons; denial of freedom of assembly, association, expression and movement; discrimination and persecution on the basis of religious or ethnic background; wide disrespect for the rule of law and lack of independence of the judiciary; unsatisfactory conditions of detention; systematic use of child soldiers; and violations of the rights to education and to an adequate standard of living, including food and medical care;

(*g*) The situation of the large number of internally displaced persons and the flow of refugees to neighbouring countries, and recalls in this context the obligations of Myanmar under international law;

(*h*) The renewed attacks by military forces on ceasefire groups, in violation of ceasefire agreements, and the subsequent and continuing violations of human rights, in particular the deterioration of the enjoyment of human rights by the affected populations;

(*i*) The fact that the Government of Myanmar has not yet undertaken all the relevant measures to allow the Joint Government of the Union of Myanmar-International Labour Organization Plan of Action for the Elimination of Forced Labour Practices in Myanmar to come into force, and that the senior military leadership failed to meet the International Labour Organization very High-Level Team during its visit from 21 to 23 February 2005, despite its mandate to evaluate the attitude of the Myanmar authorities at the highest level towards forced labour;

4. *Calls upon* the Government of Myanmar:

(*a*) To end the systematic violations of human rights in Myanmar, to ensure full respect for all human rights and fundamental freedoms, to end impunity and to investigate and bring to justice any perpetrators of human rights violations, including members of the military and other Government agents in all circumstances;

(*b*) To lift all restraints on peaceful political activity of all persons, including former political prisoners, by, inter alia, guaranteeing freedom of association and freedom of expression, including freedom of the media, and to ensure unhindered access to information for the people of Myanmar;

(*c*) To restore democracy and respect the results of the 1990 elections by, inter alia, releasing immediately and unconditionally the leadership of the National League for Democracy, including General Secretary Daw Aung San Suu Kyi and members of the National League for Democracy detained on or after 30 May 2003, as well as the recently arrested Shan leadership, and to allow them to play a full role in bringing about national reconciliation and the transition towards democracy, and in this regard draws attention to the recommendation of the Special Rapporteur that only the full and unconditional release of all political prisoners would play a positive role in the process of national reconciliation and democratization;

(*d*) To cease the ongoing harassment of the National League for Democracy and other political parties and allow the reopening of the offices of the National League for Democracy throughout the country;

(*e*) To initiate a full and independent inquiry, with international cooperation, into the Depayin incident of 30 May 2003, as called for by the General Assembly;

(*f*) To release unconditionally and immediately all political prisoners with particular emphasis on the elderly and the sick, and to desist from arresting and punishing persons for their peaceful political activities;

(*g*) To fulfil its obligations to restore the independence of the judiciary and due process of law, and to take further steps to reform the system of the administration of justice;

(*h*) To ensure that the National Convention is fully inclusive of all political parties and representatives elected in the last election and all major ethnic nationalities not represented by a political party, and is held in a democratic atmosphere that allows for freedom of expression and guarantees the safety of all participants, while recalling that an inclusive approach at the National Convention is an essential step in the democratization process, as well as in the process of genuine national reconciliation and establishment of the rule of law;

(*i*) To enter into a substantive and structured dialogue with Daw Aung San Suu Kyi and other leaders of the National League for Democracy intended to lead towards democratization and national reconciliation and at an early stage to include other political leaders in these talks, including representatives of the ethnic groups;

(*j*) To consider as a matter of high priority becoming party to all relevant instruments of international human rights law and international humanitarian law;

(*k*) To establish a national human rights commission in accordance with the Principles relating to the establishment of national institutions for the promotion and protection of human rights (the Paris Principles);

(*l*) To ensure that any future referendum and elections are conducted according to international standards for free and fair elections with the full participation of all political parties;

5. *Also calls upon* the Government of Myanmar:

(*a*) To pursue through dialogue and peaceful means the immediate suspension and permanent end of conflict with all ethnic groups in Myanmar;

(*b*) To resume the negotiations to conclude a ceasefire agreement with the Karen National Union and to follow up the negotiations with substantial political dialogue in order to ensure that the rights of ethnic nationalities are fully respected;

(*c*) To put an immediate end to the recruitment and use of child soldiers and to extend full cooperation to relevant international organizations in order to ensure the demobilization of child soldiers, their return home and their rehabilitation by the Army in accordance with Security Council resolutions 1460 (2003) of 30 January 2003 and 1539 (2004) of 14 April 2004, but stresses the need for full implementation of the plan and the need to maintain close dialogue with the United Nations Children's Fund, as well as to cooperate with the Special Representative of the Secretary-General for children and armed conflict;

(*d*) To end widespread rape and other forms of sexual violence persistently carried out by members of the armed forces, in particular against women belonging to ethnic minorities, and to investigate and bring to justice any perpetrators in order to end impunity for these acts;

(*e*) To end the systematic enforced displacement of persons and other causes of refugee flows to neighbouring countries, to provide the necessary protection and assistance to internally displaced persons, in cooperation with the international community, and to respect the right of refugees to voluntary, safe and dignified return monitored by appropriate international agencies;

(*f*) To ensure immediately safe and unhindered access to all parts of Myanmar for the United Nations and international humanitarian organizations and to cooperate fully with all sectors of society, especially with the National League for Democracy and other relevant political, ethnic and community-based groups, to ensure the provision of humanitarian assistance and to guarantee that it actually reaches the most vulnerable groups of the population;

6. *Further calls upon* the Government of Myanmar:

(*a*) To cooperate fully with the Special Envoy of the Secretary-General for Myanmar and the Special Rapporteur in order to bring Myanmar towards a transition to civilian rule, and to ensure that they are both granted full, free and unimpeded access to Myanmar and that no person cooperating with the Special Envoy, the Special Rapporteur and any international organization is subjected to any form of intimidation, harassment or punishment, and to review as a matter of urgency the cases of those currently undergoing punishment in this regard;

(*b*) Without further delay to cooperate fully with the Special Rapporteur to facilitate an independent international investigation of continuing reports of sexual violence and other abuse of civilians carried out by members of the armed forces in Shan and other states;

(*c*) To take immediate action to implement fully concrete legislative, executive and administrative measures to eradicate the practice of forced labour by all organs of Government, including the armed forces, to implement fully the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of the Convention concerning Forced or Compulsory Labour (No. 29) of the International Labour Organization, and to take the action foreseen in the report of the very High-Level Team (GB.292/7/3) as presented to the Governing Body of the International Labour Office at its two hundred and ninety-second session in March 2005, before the ninety-third session of the International Labour Conference of May/June 2005;

7. *Decides*:

(*a*) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year and requests the Special Rapporteur to submit an interim report to the General Assembly at its sixtieth session and to report to the Commission at its sixty-second session and to integrate a gender perspective throughout his work;

(*b*) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully;

8. *Decides* to continue consideration of this question at its sixty-second session;

9. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 3.]

50th meeting
14 April 2005
[Adopted without a vote. See chap. IX.]

2005/11. Situation of human rights in the Democratic People's Republic of Korea

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other human rights instruments,

Reaffirming that all States Members of the United Nations have the obligation to promote and protect human rights and fundamental freedoms and to implement the obligations they have assumed under international instruments,

Recalling its resolutions 2003/10 of 16 April 2003 and 2004/13 of 15 April 2004, *Mindful* that the Democratic People's Republic of Korea is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women,

Noting the submission by the Democratic People's Republic of Korea of its second periodic report concerning the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.35) and its second periodic report on the implementation of the Convention on the Rights of the Child (CRC/C/65/Add.24) as a sign of more active engagement in international cooperative efforts in the field of human rights, and encouraging the Democratic People's Republic of Korea to continue to submit its reports in a timely manner,

Taking note of the concluding observations of the Committee on Economic, Social and Cultural Rights on the reports submitted by the Democratic People's Republic of Korea, including suggested measures to guarantee the right to be free from hunger,

Welcoming the invitation by the Democratic People's Republic of Korea to members of the Committee on the Rights of the Child and to the Special Rapporteur on violence against women, it causes and consequences, to visit the country,

Welcoming also the fact that the Democratic People's Republic of Korea has held consultations with some countries on human rights issues,

Underlining the importance of the effective continuation of the process of rapprochement between the two Koreas and noting progress in this respect,

Welcoming the report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (E/CN.4/2005/34),

Desiring to promote an open and constructive approach leading to concrete progress in the field of human rights,

1. *Expresses its deep concern* about continuing reports of systemic, widespread and grave violations of human rights in the Democratic People's Republic of Korea, including:

(*a*) Torture and other cruel, inhuman or degrading treatment or punishment, public executions, extrajudicial and arbitrary detention, the absence of due process and the rule of law, imposition of the death penalty for political reasons, the existence of a large number of prison camps and the extensive use of forced labour;

(*b*) Sanctions on citizens of the Democratic People's Republic of Korea who have been repatriated from abroad, such as treating their departure as treason leading to punishments of internment, torture, inhuman or degrading treatment or the death penalty;

(*c*) All-pervasive and severe restrictions on the freedoms of thought, conscience, religion, opinion and expression, peaceful assembly and association and on access of everyone to information, and limitations imposed on every person who wishes to move freely within the country and travel abroad;

(*d*) Continued violation of the human rights and fundamental freedoms of women, in particular the trafficking of women for prostitution or forced marriage, ethnically motivated forced abortions, including by labour-inducing injection or natural delivery, as well as infanticide of children of repatriated mothers, including in police detention centres and labour-training camps;

2. *Expresses its grave concern* that the Government of the Democratic People's Republic of Korea has not accepted the mandate of the Special Rapporteur, as contained in Commission resolution 2004/13, and has not extended any cooperation to the Special Rapporteur;

3. *Also expresses its concern* that the Government of the Democratic People's Republic of Korea has not engaged in technical cooperation activities with the United Nations High Commissioner for Human Rights and her Office, despite efforts by the High Commissioner to engage in a dialogue with the authorities of the Democratic People's Republic of Korea in this regard;

4. *Further expresses its deep concern* at the precarious humanitarian situation in the country, in particular the prevalence of infant malnutrition which, despite recent progress, still affects the physical and mental development of a significant percentage of children;

5. *Strongly urges* the Government of the Democratic People's Republic of Korea to address these concerns in an open and constructive manner, including:

(*a*) By immediately putting an end to the systemic, widespread and grave violations of human rights mentioned above;

(*b*) By providing all pertinent information concerning the above-mentioned issues to, and removing restrictions on access to the country by, the international community;

(*c*) By accepting the mandate of the Special Rapporteur, extending its full and unreserved cooperation and assistance to the Special Rapporteur in the discharge of his mandate and, to this end, taking all necessary steps to ensure that the Special Rapporteur has free and unlimited access to any person in the Democratic People's Republic of Korea whom he might wish to meet;

(*d*) By ratifying human rights instruments to which the Democratic People's Republic of Korea is not yet a party, in particular the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination, and by implementing its obligations under the human rights instruments to which the Democratic People's Republic of Korea is a party, ensuring that all necessary measures are undertaken to this end;

(*e*) By adhering to internationally recognized labour standards and considering as a matter of priority joining the International Labour Organization and becoming a party to the International Labour Organization Convention concerning Forced or Compulsory Labour, 1930 (No. 29) and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182);

(*f*) By implementing the recommendations of the Committee on the Rights of the Child, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights;

(*g*) By cooperating with the United Nations system in the field of human rights and cooperating without restriction with the thematic procedures of the Commission on Human Rights relevant to the situation of the Democratic People's Republic of Korea, in particular with the Special Rapporteur on the right to food, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances, as well as with international human rights organizations, including human rights defenders;

(*h*) By developing a constructive dialogue with the High Commissioner and her Office with a view to establishing technical cooperation programmes in the field of human rights, as well as consultations on human rights with other countries;

(*i*) By ensuring that humanitarian organizations, including non-governmental organizations and United Nations agencies, in particular the World Food Programme, have full, free, safe and unimpeded access to all parts of the Democratic People's Republic of Korea in order for them to ensure that humanitarian assistance is delivered impartially on the basis of need, in accordance with humanitarian principles;

(*j*) By upholding international human rights standards together with democratic pluralism and the rule of law, with greater space for civil society participation at all levels of decision-making and implementation, and establishing a national human rights commission or equivalent;

(*k*) By resolving, clearly and transparently and urgently, all the unresolved questions relating to the abduction of foreigners in the form of an enforced disappearance, which remains a grave violation of human rights, including by ensuring the immediate return of abductees;

(*l*) By cooperating with its neighbouring Governments to bring an end to the trafficking of women;

6. *Requests* the international community:

(*a*) To urge the Government of the Democratic People's Republic of Korea to extend full and unreserved cooperation to the Special Rapporteur;

(*b*) To continue to urge the Government of the Democratic People's Republic of Korea to ensure that humanitarian assistance, especially food aid, destined for the people of the Democratic People's Republic of Korea is distributed in accordance with humanitarian principles and that representatives of international humanitarian actors are allowed to travel throughout the country to monitor this distribution;

(*c*) To urge States to ensure respect for the fundamental principles of asylum;

7. *Requests* the Special Rapporteur to continue his efforts to establish direct contact with the Government and with the people of the Democratic People's Republic of Korea, to report on the situation of human rights in the Democratic People's Republic of Korea and on the Government's compliance with its obligations under international human rights instruments, including through visits to the country and information received from all relevant actors, such as Governments, non-governmental organizations and any other parties who have knowledge of these matters;

8. *Requests* all relevant special rapporteurs and special representatives to examine alleged human rights violations in the Democratic People's Republic of Korea and to report thereon to the Commission at its sixty-second session, and requests the Secretary-General to give all necessary assistance to enable the special rapporteurs and special representatives to discharge their mandates fully, including through visits to the country;

9. *Requests* the High Commissioner to continue her efforts to engage in a comprehensive dialogue with the authorities of the Democratic People's Republic of Korea with a view to establishing technical cooperation programmes in the field of human rights and to submit her findings and recommendations to the Commission at its sixty-second session;

10. *Decides* to extend the mandate of the Special Rapporteur, as contained in Commission resolution 2004/13, for a further year;

11. *Requests* the Secretary-General to give the Special Rapporteur all necessary assistance in the discharge of his mandate;

12. *Requests* the Special Rapporteur to report his findings and recommendations to the General Assembly at its sixtieth session and to the Commission at its sixty-second session;

13. *Urges* other United Nations bodies, in particular the General Assembly, to take up the question of the situation of human rights in the Democratic People's Republic of Korea if the Government does not extend cooperation to the Special Rapporteur and if improvement of the situation of human rights in the country is not observed;

14. *Decides* to continue its consideration of this question at its sixty-second session under the same agenda item, as a matter of high priority;

15. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 4.]

50th meeting
14 April 2005
[Adopted by a recorded vote of 30 to 9,
with 14 abstentions. See chap. IX.]

2005/12. Situation of human rights in Cuba

The Commission on Human Rights,

Recalling its resolutions 1990/48 of 6 March 1990, 1991/68 of 6 March 1991, 1992/61 of 3 March 1992, 1993/63 of 10 March 1993, 1994/71 of 9 March 1994, 1995/66 of 7 March 1995, 1996/69 of 23 April 1996, 1997/62 of 16 April 1997, 1999/8 of 23 April 1999, 2000/25 of 18 April 2000, 2001/16 of 18 April 2001, 2002/18 of 19 April 2002, 2003/13 of 17 April 2003, 2004/11 of 15 April 2004 and its decision 1988/106 of 10 March 1988 concerning the situation of human rights in Cuba,

Aware that all people are entitled to respect for their human rights as set forth in the Universal Declaration of Human Rights,

Bearing in mind that the United Nations High Commissioner for Human Rights has appointed a Personal Representative,

1. *Invites* the Personal Representative of the High Commissioner to report to the Commission on the current status of the situations addressed in the above-mentioned resolutions of this Commission;

2. *Decides* to consider this matter further at its sixty-second session under the same agenda item, in connection with which the Personal Representative of the High Commissioner will submit her report.

50th meeting
14 April 2005
[Adopted by a recorded vote of 21 to 17,
with 15 abstentions. See chap. IX.]

2005/13. Situation of human rights in Belarus

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, the provisions of the Universal Declaration of Human Rights, and other applicable human rights instruments,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil their international obligations,

Mindful that Belarus is a party to the International Covenant on Civil and Political Rights and the Optional Protocol thereto, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto, and the Convention on the Rights of the Child and the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, *Recalling* its resolutions 2003/14 of 17 April 2003 and 2004/14 of 15 April 2004,

Welcoming the visit of the Working Group on Arbitrary Detention to Belarus,

Mindful of the requests made to the Government of Belarus by the Working Group on Enforced or Involuntary Disappearances regarding the disappearance of the former Minister of Internal Affairs, Yury Zakharenko,

Noting the conclusions and recommendations of the Committee against Torture on the third periodic report of Belarus, which appear in the report of the Committee on its twenty-fifth and twenty-sixth sessions (A/56/44), and the recommendations of the Special Rapporteur on the independence of judges and lawyers contained in the report on his mission to Belarus (E/CN.4/2001/65/Add.1), as well as the lack of progress of the Government of Belarus in addressing the noted shortfalls,

1. *Expresses deep concern*:

(*a*) That senior officials of the Government of Belarus have been implicated in the enforced disappearance and/or summary execution of three political opponents of the incumbent authorities in 1999 and of a journalist in 2000 and in the continuing investigatory cover-up, as documented in the report adopted in resolution 1371 (2004) of 28 April 2004 by the Parliamentary Assembly of the Council of Europe and endorsed by the Committee of Ministers of the Council of Europe on 30 September 2004;

(*b*) At the findings of the final report of the Election Observation Mission of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe of 9 December 2004, which stated that the parliamentary elections of 17 October 2004 in Belarus fell significantly short of commitments under the Organization for Security and Cooperation in Europe, that the referendum of 17 October 2004 to eliminate term limits on the presidency took place with unrestrained Government bias in favour of the referendum, and that the Belarusian authorities failed to create the conditions, particularly as concerns freedom of expression and freedom of the media, to ensure that the will of the people serves as the basis of the authority of government;

(*c*) About the report of the Organization for Security and Cooperation in Europe Representative on Freedom of the Media, dated 10 March 2005, which raises serious concerns regarding the grave situation of the independent media in Belarus, in particular the declining number of registrations of independent newspapers and the increased pressure on the media through judicial, extrajudicial and economic means;

(*d*) About the findings detailed in the report of the Special Rapporteur to establish direct contacts with the Government and with the people of Belarus (E/CN.4/2005/35) appointed under Commission resolution 2004/14;

(*e*) About continuing reports that as of 1 February 2005 the Government of Belarus is enforcing excessive legal requirements and requesting substantial monetary sums for registration and continued operation of non-governmental organizations;

(*f*) About the conclusions of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the observance by the Government of Belarus of the Convention concerning Freedom of Association and Protection of the Right to Organise, 1948 (No. 87) and the Convention concerning the Right to Organise and Collective Bargaining, 1949 (No. 98);

(*g*) About persistent reports of harassment and closure of non-governmental organizations, national minority organizations, independent media outlets, opposition political parties, independent trade unions and religious organizations, and the harassment of individuals engaged in democratic activities, including independent media;

(*h*) About the revocation of the licence of the European Humanities University and the continued pressure exerted by the Belarusian authorities on the University and other academic institutions;

(*i*) About the failure of the Government of Belarus to cooperate fully with all the mechanisms of the Commission, as requested by the Commission in its resolutions 2003/14 and 2004/14, in particular with the Special Rapporteur on the situation of human rights in Belarus;

(*j*) About the politically motivated prosecution of a leading opposition figure;

(*k*) About continued reports of cases of arbitrary arrest and detention;

2. *Urges* the Government of Belarus:

(*a*) To dismiss or suspend from their duties law enforcement officers and public officials implicated in forced disappearances and/or summary executions, pending an independent, credible and full investigation of those cases, and to hold the perpetrators promptly accountable;

(*b*) To ensure that all necessary measures are taken to investigate fully and impartially all cases of forced disappearance, summary execution and torture and that alleged perpetrators are brought to justice before an independent tribunal and, if found guilty, punished in a manner consistent with the international human rights obligations of Belarus;

(*c*) To ensure effective protection of the rights of persons deprived of liberty, as recommended by the Working Group on Arbitrary Detention;

(*d*) To bring the electoral process and legislative framework into line with international standards, especially those of the Organization for Security and Cooperation in Europe, including as regards the freedom of expression, to facilitate the involvement of the Office for Democratic Institutions and Human Rights in all elections and to live up to its commitments under the Organization for Security and Cooperation in Europe;

(*e*) To implement fully the recommendations of and to establish an ongoing dialogue with the Special Rapporteur as well as the Organization for Security and Cooperation in Europe Representative on Freedom of the Media;

(*f*) To cease harassment of non-governmental organizations, political parties, trade unions, independent media, educational institutions, religious organizations and democracy and human rights activists; to undertake a review of domestic laws and practices regarding the compulsory registration of non-governmental organizations and ensure that such laws and regulations are implemented or amended to conform with its international human rights obligations;

(*g*) To release individuals detained for politically motivated reasons;

(*h*) To carry out the recommendations of the International Labour Organization Commission of Inquiry and the recommendations of the Working Group on Arbitrary Detention without further delay;

(*i*) To respect the right to freedom of assembly and association;

(*j*) To provide public information regarding the execution of those sentenced to death;

(*k*) To increase its efforts to combat human trafficking and to protect the victims of human trafficking, in particular women being trafficked for the purposes of sexual exploitation;

3. *Insists* that the Government of Belarus cooperate fully with all the mechanisms of the Commission, including by extending invitations to the Special Rapporteur on the situation of human rights in Belarus, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, as well as the Working Group on Enforced or Involuntary Disappearances, and through requesting technical assistance;

4. *Decides* to extend the mandate of the Special Rapporteur for a further year, from within existing resources and requests him to continue his efforts to establish direct contacts with the Government and with the people of Belarus, with a view to examining the situation of human rights in Belarus and following any progress made towards the elaboration of a programme on human rights education for all sectors of society, in particular law enforcement, the judiciary, prison officials and civil society, and to report to the Commission at its sixty-second session;

5. *Requests* the Secretary-General to give the Special Rapporteur all necessary assistance in the discharge of his mandate;

6. *Decides* to consider this question at its sixty-second session, under the same agenda item.

50th meeting
14 April 2005
[Adopted by a recorded vote of 23 to 16,
with 14 abstentions. See chap. IX.]

2005/14. Human rights and unilateral coercive measures

The Commission on Human Rights,

Recalling the purposes and the principles of the Charter of the United Nations,

Recalling also its resolution 2004/22 of 16 April 2004 and taking note of General Assembly resolution 59/188 of 20 December 2004,

Stressing that unilateral coercive measures and legislation are contrary to international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States,

Recognizing the universal, indivisible, interdependent and interrelated character of all human rights and, in this regard, reaffirming the right to development as a universal and inalienable right and an integral part of all human rights,

Expressing its concern about the negative impact of unilateral coercive measures in the field of human rights, development, international relations, trade, investment and cooperation,

Recalling that the World Conference on Human Rights, held in Vienna from 14 to 25 June 1993, called upon States to refrain from any unilateral measure not in accordance with international law and the Charter of the United Nations that creates obstacles to trade relations among States and impedes the full realization of all human rights, and also severely threatens the freedom of trade,

Deeply concerned that, despite the resolutions adopted on this issue by the General Assembly, the Commission on Human Rights and United Nations conferences held in the 1990s and their five-year reviews, and contrary to norms of international law and the Charter of the United Nations, unilateral coercive measures continue to be promulgated, implemented and enforced, inter alia through resorting to war and militarism, with all their negative implications for the social-humanitarian activities and economic and social development of developing countries, including their extraterritorial effects, thereby creating additional obstacles to the full enjoyment of all human rights by peoples and individuals under the jurisdiction of other States,

Reaffirming that unilateral coercive measures are a major obstacle to the implementation of the Declaration on the Right to Development,

Recalling article 1, paragraph 2, common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights which provides, inter alia, that in no case may a people be deprived of its own means of subsistence,

1. *Urges* all States to stop adopting or implementing unilateral coercive measures not in accordance with international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States, in particular those of a coercive nature with extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights and other international human rights instruments, in particular the right of individuals and peoples to development;

2. *Strongly objects* to the extraterritorial nature of those measures which, in addition, threaten the sovereignty of States and, in this context, calls upon all Member States neither to recognize these measures nor apply them, as well as to take effective administrative or legislative measures, as appropriate, to counteract the extraterritorial application or effects of unilateral coercive measures;

3. *Condemns* the continued unilateral application and enforcement by certain Powers of such measures as tools of political or economic pressure against any country, particularly against developing countries, with a view to preventing these countries from exercising their right to decide, of their own free will, their own political, economic and social systems;

4. *Reiterates its call* upon Member States that have initiated such measures to abide by the principles of international law, the Charter of the United Nations, the declarations of the United Nations and world conferences and relevant resolutions and to commit themselves to their obligations and responsibilities arising from the international human rights instruments to which they are parties by putting an immediate end to such measures;

5. *Reaffirms*, in this context, the right of all peoples to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development;

6. *Recalls* that, according to the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, contained in the annex to General Assembly resolution 2625 (XXV) of 24 October 1970, and according to the relevant principles and provisions contained in the Charter of Economic Rights and Duties of States proclaimed by the General Assembly in its resolution 3281 (XXIX) of 12 December 1974, in particular article 32, no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind;

7. *Reaffirms* that essential goods such as food and medicines should not be used as tools for political coercion and that under no circumstances should people be deprived of their own means of subsistence and development;

8. *Underlines* that unilateral coercive measures are one of the major obstacles to the implementation of the Declaration on the Right to Development and, in this regard, calls upon all States to avoid the unilateral imposition of economic coercive measures and the extraterritorial application of domestic laws which run counter to the principles of free trade and hamper the development of developing countries, as recognized by the Intergovernmental Group of Experts on the Right to Development in its report on its second session (E/CN.4/1998/29);

9. *Rejects* all attempts to introduce unilateral coercive measures, as well as the increasing trend in this direction, including through the enactment of laws with extraterritorial application which are not in conformity with international law;

10. *Recognizes* that the Declaration of Principles adopted at the first phase of the World Summit on the Information Society, held in Geneva in December 2003, strongly urged States to avoid and refrain from any unilateral measure in building the Information Society;

11. *Invites once again* all special rapporteurs and existing thematic mechanisms of the Commission in the field of economic, social and cultural rights to pay due attention, within the scope of their respective mandates, to the negative impact and consequences of unilateral coercive measures;

12. *Decides* to give due consideration to the negative impact of unilateral coercive measures in its task concerning the implementation of the right to development;

13. *Requests*:

(*a*) The United Nations High Commissioner for Human Rights, in discharging her functions in relation to the promotion and protection of human rights, to pay due attention and give urgent consideration to the present resolution;

(*b*) The Secretary-General to bring the present resolution to the attention of all Member States and to seek their views and information on the implications and negative effects of unilateral coercive measures on their populations, and to submit a report thereon to the Commission at its sixty-second session;

14. *Decides* to examine this question, on a priority basis, at its sixty-second session under the same agenda item.

50th meeting
14 April 2005
[Adopted by a recorded vote of 37 votes to 14,
with 2 abstentions. See chap. X.]

2005/15. Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the Vienna Declaration and Programme of Action, particularly on the question of the human rights of everyone to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to clean water, food, adequate housing and work,

Recalling its earlier resolutions on the subject, in particular, resolutions 2003/20 of 22 April 2003 and 2004/17 of 16 April 2004,

Taking into consideration the Johannesburg Declaration on Sustainable Development (A/CONF.199/20 and Corr.1, chap. I, resolution 1, annex) and its Plan of Implementation (ibid., resolution 2, annex), adopted by the World Summit on Sustainable Development held in Johannesburg, South Africa, in September 2002, *Welcoming* the entry into force of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade as a key instrument providing States with a major tool to reduce the risks associated with pesticide use,

Underlining the importance of broad dissemination of information regarding legislation on this subject and the negative effects on health of the transportation and dumping of illicit products and toxic wastes,

Affirming that the illicit movement and dumping of toxic and dangerous products and wastes constitute a serious threat to human rights, including the right to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to clean water, food, adequate housing and work, particularly of individual developing countries that do not have the technologies to process them,

Noting that the Stockholm Convention on Persistent Organic Pollutants has the potential to address serious issues of concern, especially for developing countries,

Reaffirming that the international community must treat all human rights in a fair and equal manner, on the same footing and with the same emphasis,

Reiterating that all human rights are universal, indivisible, interdependent and interrelated,

Reaffirming General Assembly resolution 50/174 of 22 December 1995 on strengthening of United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity,

Mindful of the call by the World Conference on Human Rights on all States to adopt and vigorously implement existing conventions relating to the dumping of toxic and dangerous products and to cooperate in the prevention of illicit dumping,

Aware of the increasing rate of illicit movement and dumping by transnational corporations and other enterprises from industrialized countries of hazardous and other wastes in developing countries that do not have the national capacity to deal with them in an environmentally sound manner,

Aware also that many developing countries do not have the national capacities and technologies to process such wastes in order to eradicate or diminish their adverse effects on human rights, including the right to life, the enjoyment of the highest attainable standard of physical and mental health, and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to clean water, food, adequate housing and work,

1. *Takes note* of the report of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (E/CN.4/2005/45 and Add.1);

2. *Appreciates* the efforts made by the Special Rapporteur in carrying out his mandate with very limited resources for such a task;

3. *Categorically condemns* the illicit dumping of toxic and dangerous products and wastes in developing countries;

4. *Reaffirms* that illicit traffic in and dumping of toxic and dangerous products and wastes constitute a serious threat to human rights, including the right to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to clean water, food, adequate housing and work;

5. *Urges* all Governments to take appropriate legislative and other measures, in line with their international obligations, to prevent the illegal international trafficking in toxic and hazardous products and wastes, the transfer of toxic and hazardous products and wastes through fraudulent waste-recycling programmes, and the transfer of polluting industries, industrial activities and technologies, which generate hazardous wastes, from developed to developing countries;

6. *Invites* the United Nations Environment Programme, the secretariats for the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Pesticides in International Trade, the Commission on Sustainable Development, the International Register of Potentially Toxic Chemicals, the Food and Agriculture Organization of the United Nations, the International Labour Organization, the World Health Organization and regional organizations to continue to intensify their coordination and international cooperation and technical assistance on environmentally sound management of toxic chemicals and hazardous wastes, including the question of their transboundary movement;

7. *Requests* the Governments of developed countries, together with international financial institutions, to provide financial assistance to African countries for the implementation of the Programme of Action adopted at the First Continental Conference for Africa on the Environmentally Sound Management of Unwanted Stocks of Hazardous Wastes and Their Prevention, held in Rabat, from 8 to 12 January 2001;

8. *Expresses its appreciation* to the relevant United Nations bodies, in particular the United Nations Environment Programme and the secretariat for the Basel Convention, for the support extended to the Special Rapporteur and urges them and the international community to continue to give him the necessary support to enable him to discharge his mandate;

9. *Urges* the international community and the relevant United Nations bodies, in particular the United Nations Environment Programme and the secretariat for the Basel Convention, to continue to give appropriate support to developing countries, upon their request, in their efforts to implement the provisions of existing international and regional instruments controlling the transboundary movement and dumping of toxic and dangerous products and wastes in order to protect and promote human rights, including the right to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to clean water, food, adequate housing and work;

10. *Urges* all Governments to ban the export of toxic and dangerous products, substances, chemicals, pesticides and persistent organic pollutants that are banned or severely restricted in their own countries;

11. *Calls upon* countries that have not done so to consider ratifying the Rotterdam Convention and the Stockholm Convention;

12. *Urges* States to strengthen the role of national environmental protection agencies and non-governmental organizations, local communities and associations, trade unions, workers and victims, and provide them with the legal and financial means to take necessary action;

13. *Urges* human rights bodies to be more systematic in addressing violations of rights associated with the practices of multinational companies, toxic waste and other environmental problems;

14. *Urges* the Special Rapporteur to continue to undertake, in consultation with the relevant United Nations bodies, organizations and the secretariats of relevant international conventions, a global, multidisciplinary and comprehensive study of existing problems and new trends of, and solutions to, illicit traffic in and dumping of toxic and dangerous products and wastes, in particular in developing countries, as well as in those sharing borders with developed countries, with a view to making concrete recommendations and proposals on adequate measures to control, reduce and eradicate these phenomena;

15. *Calls upon* countries to facilitate the work of the Special Rapporteur by providing information and inviting him to undertake country visits;

16. *Invites* the Special Rapporteur, in accordance with his mandate, to include in his report to the Commission at its sixty-second session comprehensive information on:

(*a*) Persons killed, maimed or otherwise injured in developing countries through the illicit movement and dumping of toxic and dangerous products and wastes;

(*b*) The question of the impunity of the perpetrators of these heinous crimes, including racially motivated discriminatory practices, and to recommend measures to bring them to an end that take into account the role of both Governments and private actors in ending impunity;

(*c*) Human rights standards applicable to transnational corporations and other business enterprises that dump toxic and dangerous products and wastes;

(*d*) The question of rehabilitation of and assistance to victims;

(*e*) The scope of national legislation in relation to transboundary movement and dumping of toxic and dangerous products and wastes;

(*f*) The question of fraudulent waste-recycling programmes, the transfer of polluting industries, industrial activities and technologies from the developed to developing countries and their new trends, including e-waste and dismantling of ships, ambiguities in international instruments that allow illegal movement and dumping of toxic and dangerous products and wastes, and any gaps in the effectiveness of the international regulatory mechanisms;

17. *Encourages* the Special Rapporteur, in accordance with his mandate and with the support and assistance of the Office of the United Nations High Commissioner for Human Rights, to continue to provide Governments with an appropriate opportunity to respond to allegations transmitted to him and reflected in his report, and to have their observations reflected in his report to the Commission;

18. *Reiterates its call* to the Secretary-General to continue to make all necessary resources available for the Special Rapporteur to carry out his mandate successfully and, in particular:

(*a*) To provide him with adequate financial and human resources, including administrative support;

(*b*) To provide him with the necessary specialized expertise to enable him carry out his mandate fully;

(*c*) To facilitate his consultations with specialized institutions and agencies, in particular with the United Nations Environment Programme and the World Health Organization, with a view to improving the provision by such institutions and agencies of technical assistance to Governments which request it and appropriate assistance to victims;

19. *Urges* transnational corporations and other business enterprises involved in the transfer of toxic and dangerous products to adhere to local and international health, environmental, labour and other standards in furtherance of human rights and to promote technology transfers to developing countries that can improve the management of toxic wastes and dangerous products and prevent their adverse impacts on local communities;

20. *Invites* the Commission on Sustainable Development to invite the Special Rapporteur to report to it on the impacts of dumping of toxic and hazardous wastes on human rights as it relates to the work of that Commission;

21. *Decides* to continue consideration of this question at its sixty-second session, under the same agenda item.

50th meeting
14 April 2005
[Adopted by a recorded vote of 37 votes to 13,
with 2 abstentions. See chap. X.]

2005/16. Human rights and extreme poverty

The Commission on Human Rights,

Recalling that, in accordance with the Universal Declaration of Human Rights, the International Covenants on Human Rights recognize that the ideal of free human beings enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his or her economic, social and cultural rights, as well as his or her civil and political rights, *Recalling in particular* that article 25 of the Universal Declaration of Human Rights stipulates that everyone has the right to a standard of living adequate for the health and well-being of himself and of his or her family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his/her control,

Recalling also that the eradication of widespread poverty, including its most persistent forms, and the full enjoyment of economic, social and cultural rights and civil and political rights remain interrelated goals,

Reaffirming that the promotion of all human rights, including the right to development, and the elimination of extreme poverty can contribute substantially to the promotion and consolidation of democracy,

Deeply concerned that extreme poverty persists in all countries of the world, regardless of their economic, social and cultural situation, and that its extent and manifestations, such as hunger, trafficking in human beings, disease, lack of adequate shelter, illiteracy and hopelessness, are particularly severe in developing countries, though acknowledging the significant progress made in several parts of the world in combating extreme poverty,

Bearing in mind the relevant provisions of the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

Recalling in particular that the World Conference reaffirmed that least developed countries committed to the process of democratization and economic reforms, many of which are in Africa, should be supported by the international community in order to succeed in their transition to democracy and economic development,

Reaffirming that the fight against extreme poverty must remain a high priority for the international community and bearing in mind in this regard the commitments made in the Copenhagen Declaration on Social Development (A/CONF.166/9, chap. I, resolution 1, annex I) and the Programme of Action of the World Summit for Social Development (ibid., annex II), held in March 1995, at the World Summit on Sustainable Development held in Johannesburg, South Africa, in September 2002, as well as the Declaration on the tenth anniversary of the World Summit for Social Development (see E/2005/26-E/CN.5/2005/7, chap. I, sect. A), adopted in February 2005,

Bearing in mind the commitments reaffirmed in the United Nations Millennium Declaration, particularly to spare no effort to fight against extreme poverty, including the commitment to halve by 2015 the proportion of the world's people whose income is less than one United States dollar a day and the proportion of people who suffer from hunger, and looking forward to the five-year review of the Declaration to be held in September 2005,

Recalling General Assembly resolution 50/107 of 20 December 1995, in which the Assembly proclaimed the first United Nations Decade for the Eradication of Poverty (1997-2006), and the report of the Secretary-General on the implementation of the Decade (A/59/326), *Bearing in mind* the resolutions of the General Assembly on human rights and extreme poverty, in particular resolution 59/186 of 20 December 2004, and the importance they attach to giving men and women living in extreme poverty the wherewithal to organize and participate in all aspects of political, economic and social life,

Recalling the determination of States to eradicate the persistent and increasing burden of poverty on women, which was reaffirmed during the forty-ninth session of the Commission on the Status of Women,

Recalling also its resolution 2003/22 of 22 April 2003 on women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing, which recognizes that restrictions on women's equal access to credit and loans, factors preventing them from owning and inheriting land may contribute to the feminization of poverty,

Stressing the necessity of better understanding the causes and consequences of extreme poverty,

Stressing also that respect for all human rights, which are indivisible and interdependent, is crucial to the fight against extreme poverty,

Noting that the United Nations Educational, Scientific and Cultural Organization has chosen the eradication of poverty as a cross-cutting theme of its strategy for 2002-2007,

1. *Reaffirms* that:

(*a*) Extreme poverty and exclusion from society constitute a violation of human dignity and that urgent national and international action is therefore required to eliminate them;

(*b*) The right to life encompasses existence in human dignity with the minimum necessities of life;

(*c*) The existence of widespread absolute poverty inhibits the full and effective enjoyment of human rights and makes democracy and popular participation fragile;

(*d*) Concerted efforts to strengthen and consolidate national democratic institutions and governance are required in order to address the most pressing social needs of people living in poverty and to promote respect for human rights and fundamental freedoms;

(*e*) For peace and stability to prevail, national action and international action and cooperation are required for the promotion of a better life for all in larger freedom, a critical element of which is the eradication of poverty;

(*f*) Political commitment, social justice and equal access to social services are conditions sine qua non for the eradication of poverty, and welcomes in this connection the fact that States and international organizations have never been so aware of the urgency of winning the battle against extreme poverty;

(*g*) It is essential for States to foster participation by the poorest people in the decision-making process in the societies in which they live and in the realization of human rights, and for people living in poverty and vulnerable groups to be empowered to help plan, implement and evaluate policies that affect them, thus enabling them to become genuine partners in development;

(*h*) Special attention must be given to the plight of women, particularly older women and women heads of household, and children, who often bear the greatest burden of extreme poverty;

2. *Recalls*:

(*a*) The Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development;

(*b*) That, as stated in the Johannesburg Plan of Implementation (A/CONF.199/20 and Corr.1, chap. I, resolution 2, annex), adopted by the World Summit on Sustainable Development, good governance within each country and at the international level is essential for sustainable development; at the domestic level, sound environmental, social and economic policies, democratic institutions responsive to the needs of the people, the rule of law, anti-corruption measures, gender equality and an enabling environment for investment are the basis for sustainable development;

(*c*) That to ensure the protection of the rights of all individuals, non-discrimination with regard to the poorest and the full exercise of all human rights and fundamental freedoms, a better understanding is needed of what is endured by people living in poverty, including women and children, and that thought must be given to the subject, drawing on the experience and ideas communicated by the poorest themselves and by those committed to working alongside them;

3. *Recognizes* the efforts of developing countries, in particular the commitment and determination of the African leaders, to seriously address the challenges of poverty, underdevelopment, marginalization, social exclusion, economic disparities, instability and insecurity, through initiatives such as the New Partnership for Africa's Development and other innovative mechanisms such as the World Solidarity Fund for the Eradication of Poverty, and calls upon developed countries, the United Nations and its specialized agencies, as well as the international financial institutions, to provide, through their operational programmes, new and additional financial resources, as appropriate, to support these initiatives;

4. *Welcomes* the increasing number of events associated with the celebration, on 17 October of each year, of the International Day for the Eradication of Poverty and the opportunity which these events provide to people and populations living in extreme poverty to make their voices heard;

5. *Expresses its appreciation*:

(*a*) That an integrated approach is being followed by the United Nations system in addressing the question of extreme poverty;

(*b*) That the international financial institutions have developed new policies to strengthen the human and social dimension of their action, and encourages them to continue to do so;

(*c*) For the initiatives taken in many countries by national education authorities to raise awareness among all children and young people of the existence of extreme poverty and of the urgent need for united action to enable all people, especially the poorest and most vulnerable in society, to exercise their human rights;

6. *Takes note* of the report of the independent expert on the question of human rights and extreme poverty (E/CN.4/2005/49);

7. *Takes note* of the ongoing work of the Sub-Commission on the Promotion and Protection of Human Rights in accordance with Commission resolution 2001/31 of 23 April 2001;

8. *Calls upon*:

(*a*) The Office of the United Nations High Commissioner for Human Rights to give high priority to the question of the relationship between extreme poverty and human rights and invites it to further pursue the work in this area;

(*b*) The Office of the High Commissioner, the independent expert on extreme poverty and the Sub-Commission to ensure coordination and coherence of their work, in accordance with previous Commission resolutions, and to continue, in the most appropriate manner, their consultations with the poorest, civil society and interested States;

(*c*) The United Nations to strengthen poverty eradication as a priority throughout the United Nations system;

9. *Urges* States and encourages the private sector and international financial and development institutions, such as the World Bank and regional development banks, to promote the participation of the most vulnerable individuals or groups, in particular victims of racism, racial discrimination, xenophobia and related intolerance, in economic, cultural and social decision-making at all stages, particularly in the development, implementation and assessment of poverty-alleviation strategies, development projects, and trade and market assistance programmes;

10. *Invites* the treaty bodies monitoring the application of human rights instruments, especially the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination, to take into account, when considering the reports of States parties, the question of extreme poverty and human rights;

11. *Invites* the independent expert to pay special attention to the concrete experiences of involvement by people living in extreme poverty in the political decision-making and social processes;

12. *Also invites* the independent expert, in the framework of his ongoing work on employment and employability, to continue to focus on the various aspects of the link between human rights and extreme poverty;

13. *Requests* the independent expert to report to the Commission at its sixty-second session;

14. *Decides* to consider this question at its sixty-second session under the same agenda item.

50th meeting
14 April 2005
[Adopted without a vote. See chap. X.]

2005/17. Globalization and its impact on the full enjoyment of all human rights

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, and expressing in particular the need to achieve international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction,

Reaffirming its resolutions 1999/59 of 28 April 1999, 2001/32 of 23 April 2001, 2002/28 of 22 April 2002, 2003/23 of 22 April 2003 and 2004/24 of 16 April 2004, and General Assembly resolutions 55/102 of 4 December 2000, 56/165 of 19 December 2001, 57/205 of 18 December 2002, 58/193 of 22 December 2003, 58/225 of 23 December 2003 and 59/184 of 20 December 2004,

Affirming that, while globalization offers great opportunities, at present its benefits are very unevenly shared and costs unevenly distributed, and that developing countries face special difficulties in meeting this challenge,

Underlining that the deep fault line between the rich and the poor that divides human society and the ever-increasing gap between the developed and the developing countries pose a major threat to global prosperity, security and stability,

Reaffirming the Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986,

Reaffirming also the resolve expressed in the United Nations Millennium Declaration to ensure that globalization becomes a positive force for the people of the world,

Realizing that globalization is not merely an economic process, but that it also has social, political, environmental, cultural and legal dimensions, which have an impact on the full enjoyment of all human rights, *Realizing also* the need to undertake a thorough, independent and comprehensive assessment of the social, environmental and cultural impact of globalization on societies,

Recognizing that globalization should be guided by the fundamental principles that underpin the corpus of human rights, such as equality, participation, accountability, non-discrimination, at both the national and international levels, respect for diversity, tolerance and international cooperation and solidarity,

Affirming in this regard that multilateral institutions have a unique role to play in meeting the challenges and opportunities presented by globalization and also affirming the need for these institutions to recognize, respect and protect all human rights,

Recalling the setback at the Fifth Ministerial Conference of the World Trade Organization held in Cancún, Mexico, in September 2003 and stressing the importance of redoubling efforts in working towards a successful and development-oriented conclusion of the negotiations of the Fourth Ministerial Conference, held in Doha in November 2001, as set out in the framework (the "July package") agreed in the decision adopted by the General Council of the World Trade Organization on 1 August 2004 (WT/L/579) and prior to the forthcoming Sixth Ministerial Conference to be held in the Hong Kong Special Administrative Region, China,

Recalling the Monterrey Consensus (A/CONF.198/11, chap. I, resolution 1, annex) adopted by the International Conference on Financing for Development, held in Monterrey, Mexico, in March 2002 and the Johannesburg Declaration on Sustainable Development (A/CONF.199/20 and Corr.1, chap. I, resolution 1, annex) adopted by the World Summit on Sustainable Development in September 2002, and taking note of the Declaration of Principles and the Plan of Action adopted at the first phase of the World Summit on the Information Society, held in Geneva in December 2003,

Taking note with appreciation of the São Paulo Consensus (TD/412, part II), adopted by the United Nations Conference on Trade and Development at its eleventh session held in São Paulo, Brazil, in June 2004, and recognizing its contribution, in terms of the three pillars of the mandate of the Conference on consensus-building, research analysis and technical assistance, towards addressing the growth and developmental challenges faced by the developing countries in the wake of globalization,

Recalling the report entitled "A Fair Globalization: Creating Opportunities for All" of the World Commission on the Social Dimension of Globalization of the International Labour Organization, as a contribution to the international dialogue towards fully inclusive and equitable globalization,

Bearing in mind the positive outcome of the high-level seminar on the right to development entitled "Global partnership for development" organized by the Office of the United Nations High Commissioner for Human Rights in Geneva on 9 and 10 February 2004 within the framework of the open-ended working group established to monitor and review progress made in the promotion and implementation of the right to development, *Welcoming* the establishment of the high-level task force, within the framework of the Working Group on the Right to Development, with the objective of assisting the Working Group to fulfil its mandate as contained in paragraph 10 (*a*) of the Commission on Human Rights resolution 1998/72 of 22 April 1998,

Welcoming also the participation in the task force, at its first meeting, of the representatives of the United Nations Development Programme, the United Nations Children's Fund, the United Nations Conference on Trade and Development, the World Bank, the International Monetary Fund and the World Trade Organization,

Underlining the focus on globalization in the future work of the Sub-Commission on the Promotion and Protection of Human Rights, as reflected in the report of the Chairperson of the Sub-Commission at its fifty-fourth session (E/CN.4/2003/94), and requesting the Sub-Commission to intensify further its work in this area,

Deeply concerned at the inadequacy of measures to narrow the widening gap between the developed and the developing countries, which adversely affects the full enjoyment of human rights, particularly in the developing countries,

Underlining the shared responsibility to assist countries and peoples excluded from or disadvantaged by globalization,

1. *Recognizes* that, while globalization, by its impact on, inter alia, the role of the State, may affect human rights, the promotion and protection of all human rights is first and foremost the responsibility of the State;

2. *Reaffirms* that, in addition to States' separate responsibilities to their individual societies, they have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level as an essential element in the construction and shaping of an ethical foundation for globalization;

3. *Also reaffirms* the commitment to create an enabling environment, at both the national and international levels, that is conducive to development and to the elimination of poverty through, inter alia, good governance within each country and at the international level, transparency and accountability in the financial, monetary and trading systems, including in the private sector and transnational corporations, and the commitment to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system to ensure that there is greater complementarity between the basic tenets of international trade law and international human rights law;

4. *Further reaffirms* that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realized;

5. *Recognizes* that implementation of the Millennium Declaration and attainment of international development goals as identified at United Nations and world conferences, and of the Millennium Development Goals will contribute to the progressive realization of the right to development;

6. *Notes with appreciation* that the high-level task force established within the framework of the Working Group on the Right to Development at its next meeting will examine Millennium Development Goal 8 on global partnership for development and suggest criteria for its periodic evaluation aimed at improving the effectiveness of global partnership with regard to the realization of the right to development;

7. *Strongly urges* the international community, at the High-Level Plenary Meeting to be held at the commencement of the sixtieth session of the General Assembly, to take stock of the slow progress with regard to the Millennium Development Goals, with a view to taking all necessary and appropriate measures, including enhanced official development assistance, the search for a durable solution to the external debt problem, market access, capacity-building, and dissemination of knowledge and technology, in order to achieve successful integration of developing countries in the global economy;

8. *Underlines* the importance of coherence between national and international efforts and between the international monetary, financial and trading systems as being fundamental to sound global economic governance;

9. *Emphasizes* that development should be at the centre of the international economic agenda and that coherence between national development strategies, on the one hand, and international obligations and commitments, on the other, will contribute to the creation of an enabling environment for development;

10. *Stresses* the need to broaden and strengthen the participation of developing countries in international economic decision-making and norm-setting with a view to ensuring equitable distribution of growth and development gains in a globalizing world economy;

11. *Recognizes* that only through broad and sustained efforts, including policies and measures at the global level to create a shared future based upon our common humanity in all its diversity, can globalization be made fully inclusive and equitable and have a human face, thus contributing to the full enjoyment of all human rights;

12. *Takes note with appreciation* of the analytical study on the fundamental principle of participation in the context of globalization (E/CN.4/2005/41) submitted by the United Nations High Commissioner for Human Rights, as requested in paragraph 8 of Commission resolution 2004/24, and in this regard requests the High Commissioner to bring the report to the attention of the World Trade Organization and other relevant international organizations with a view to operationalizing its conclusions and recommendations;

13. *Requests* the High Commissioner to invite organs and bodies of the United Nations and other relevant multilateral bodies and international organizations, including the World Trade Organization, to consider, within their mandates, the report of the World Commission on the Social Dimension of Globalization;

14. *Underlines* that, in the absence of a framework based on the fundamental principles that underpin the corpus of human rights, such as equality, participation, accountability, non-discrimination, respect of diversity, tolerance and international cooperation and solidarity, globalization will continue on its asymmetrical course;

15. *Underlines once again* the need for the treaty bodies, special rapporteurs/representatives, independent experts and working groups of the Commission, within their mandates and where appropriate, to take into consideration the content of the present resolution and the report of the High Commissioner entitled "Globalization and its impact on the full enjoyment of human rights" (E/CN.4/2002/54);

16. *Decides* to consider this issue again at its sixty-second session.

50th meeting
14 April 2005
[Adopted by a recorded vote of 38 votes to 15.
See chap. X.]

2005/18. The right to food

The Commission on Human Rights,

Recalling the Universal Declaration of Human Rights, which provides that everyone has the right to a standard of living adequate for her/his health and well-being, including food,

Recalling also the provisions of the International Covenant on Economic, Social and Cultural Rights in which the fundamental right of every person to be free from hunger is recognized,

Recalling further the Universal Declaration on the Eradication of Hunger and Malnutrition as well as the United Nations Millennium Declaration,

Bearing in mind the Rome Declaration on World Food Security and the Plan of Action of the World Food Summit, held in Rome from 13 to 17 November 1996, and bearing in mind also the Declaration of the World Food Summit: five years later - International Alliance against Hunger, held in Rome from 10 to 13 June 2002,

Welcoming the concrete recommendations contained in the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (E/CN.4/2005/131, annex), adopted by the Council of the Food and Agriculture Organization of the United Nations,

Reaffirming that all human rights are universal, indivisible and interdependent and interrelated,

Recalling all its previous resolutions in this regard, in particular resolution 2004/19 of 16 April 2004,

Recognizing that the problem of hunger and food insecurity has global dimensions and that they are likely to persist and even to increase dramatically in some regions unless urgent, determined and concerted action is taken, given the anticipated increase in the world's population and the strain on natural resources, *Reaffirming* that a peaceful, stable and enabling political, social and economic environment, both at a national and an international level, is the essential foundation which will enable States to give adequate priority to food security and poverty eradication,

Reiterating, as did the Rome Declaration as well as the Declaration of the World Food Summit: five years later, that food should not be used as an instrument of political or economic pressure, and reaffirming in this regard the importance of international cooperation and solidarity, as well as the necessity of refraining from unilateral measures not in accordance with international law and the Charter of the United Nations which endanger food security,

Convinced that each State must adopt a strategy consistent with its resources and capacities to achieve its individual goals in implementing the recommendations contained in the Rome Declaration and Plan of Action of the World Summit and, at the same time, cooperate regionally and internationally in order to organize collective solutions to global issues of food security in a world of increasingly interlinked institutions, societies and economies, where coordinated efforts and shared responsibilities are essential,

Stressing the importance of reversing the continuing decline of official development assistance devoted to agriculture and rural development, both in real terms and as a share of total official development assistance,

Expressing its deep concern at the number and scale of natural disasters, diseases and agricultural pests and their increasing impact in recent years, which have resulted in a massive loss of life and livelihood and threatened agricultural production and food security, in particular in developing countries,

Welcoming the solidarity and humanity expressed by the international community towards the victims and the Governments of the States that suffered huge losses of life and socio-economic and environmental damage as a result of the unprecedented tsunami disaster that struck the Indian Ocean and South-East Asian region on 26 December 2004,

1. *Reaffirms* that hunger constitutes an outrage and a violation of human dignity and, therefore, requires the adoption of urgent measures at the national, regional and international levels for its elimination;

2. *Also reaffirms* the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger so as to be able fully to develop and maintain their physical and mental capacities;

3. *Considers* it intolerable that there are around 852 million undernourished people in the world, that every five seconds a child under the age of 5 dies, directly or indirectly, of hunger or hunger-related disease somewhere in the world and that one person loses his/her eyesight every four minutes as a result of a lack of vitamin A when, according to the Food and Agriculture Organization of the United Nations, the planet could produce enough food to provide 2,100 kilocalories per person per day to 12 billion people, twice the world's present population;

4. *Expresses its concern* that women are disproportionately affected by hunger, food insecurity and poverty, in part as a result of gender inequality, that in many countries girls are twice as likely as boys to die from malnutrition and preventable childhood diseases and that it is estimated that almost twice as many women as men suffer from malnutrition and, in that sense, encourages the Special Rapporteur on the right to food to continue mainstreaming a gender perspective in the fulfilment of his mandate;

5. *Stresses* the need to make efforts to mobilize and optimize the allocation and utilization of technical and financial resources from all sources, including external debt relief for developing countries, to reinforce national actions to implement sustainable food security policies;

6. *Recognizes* that the promises made at the World Food Summit in 1996 to halve the number of undernourished persons are not being fulfilled and that, on the contrary, global hunger increased yet again this year, and invites once again all international financial and developmental institutions, as well as the relevant United Nations agencies and funds, to give priority and provide necessary funding to help realize the aim to halve by the year 2015 the proportion of people who suffer from hunger, as well as to realize the right to food;

7. *Encourages* all States to take steps with a view to achieving progressively the full realization of the right to food, including steps to promote the conditions for everyone to be free from hunger and as soon as possible enjoy fully the right to food, as well as to elaborate and adopt national plans to combat hunger;

8. *Requests* all States and private actors, as well as international organizations within their respective mandates, to take fully into account the need to promote the effective realization of the right to food for all, including in the ongoing negotiations in different fields;

9. *Takes note* of the report of the Special Rapporteur on the right to food (E/CN.4/2005/47 and Add.1 and 2) and also takes note of his valuable work in the promotion of the right to food in all parts of the world;

10. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in his task, to supply all necessary information requested by him and to give serious consideration to responding favourably to the Special Rapporteur's requests to visit their countries, so as to enable him to fulfil his mandate even more effectively;

11. *Requests* the United Nations High Commissioner for Human Rights to provide all necessary human and financial resources for the effective fulfilment of the mandate of the Special Rapporteur;

12. *Welcomes* the work already done by the Committee on Economic, Social and Cultural Rights in promoting the right to adequate food, in particular its general comment No. 12 (1999) on the right to adequate food (article 11 of the International Covenant on Economic, Social and Cultural Rights), in which the Committee affirmed, inter alia, that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of

Human Rights and is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all;

13. *Recalls* general comment No. 15 (2002) on the right to water (articles 11 and 12 of the Covenant) adopted by the Committee on Economic, Social and Cultural Rights, in which the Committee notes, inter alia, the importance of ensuring sustainable water resources for human consumption and agriculture in the realization of the right to adequate food;

14. *Welcomes* the meeting of world leaders for action against hunger and poverty, convened by the Presidents of Brazil, Chile and France and the Prime Minister of Spain, with the support of the Secretary-General, and the resulting New York Declaration on Action against Hunger and Poverty, which has been supported by more that one hundred countries to date, and recommends the continuation of efforts aimed at identifying additional sources of financing for the fight against hunger and poverty;

15. *Also welcomes* the adoption by the Council of the Food and Agriculture Organization of the United Nations of the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, which marks an important step in the progress towards the promotion, protection and implementation of human rights for all;

16. *Requests* the Special Rapporteur to submit an interim report to the General Assembly at its sixtieth session and to report to the Commission at its sixty-second session on the implementation of the present resolution;

17. *Invites* Governments, relevant United Nations agencies, funds and programmes, treaty bodies, civil society actors, including non-governmental organizations, as well as the private sector, to cooperate fully with the Special Rapporteur in the fulfilment of his mandate, inter alia through the submission of comments and suggestions on ways and means of realizing the right to food;

18. *Decides* to continue its consideration of this matter at its sixty-second session, under the same agenda item.

50th meeting
14 April 2005
[Adopted by a recorded vote of 52 votes to 1.
See chap. X.]

2005/19. Effects of economic reform policies and foreign debt on the full enjoyment of all human rights

The Commission on Human Rights,

Recalling its previous resolutions on this matter, in particular resolution 2004/18 of 16 April 2004, *Recalling also* that the purpose of the Universal Declaration of Human Rights is the full promotion and protection of human rights and fundamental freedoms, that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration can be fully realized and that in the United Nations Millennium Declaration all States resolved to respect fully and uphold the Universal Declaration of Human Rights,

Stressing that one of the purposes of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character,

Emphasizing that the World Conference on Human Rights agreed to call upon the international community to make all efforts to help alleviate the external debt burden of developing countries in order to supplement the efforts of the Governments of such countries to attain the full realization of economic, social and cultural rights of their people,

Stressing the determination expressed in the Millennium Declaration to deal comprehensively and effectively with the debt problems of low- and middle-income developing countries, through various national and international measures designed to make their debt sustainable in the long term,

Noting that the total debt stock of the developing countries rose from 1,421 billion United States dollars in 1990 to 2,384 billion dollars in 2002,

Noting also that, in 2002, developing countries as a whole made net outward transfers of financial resources for the sixth consecutive year,

Acknowledging that there is greater acceptance that the increasing debt burden faced by the most indebted developing countries, in particular the least developed countries, is unsustainable and constitutes one of the principal obstacles to achieving progress in people-centred sustainable development and poverty eradication and that for many developing countries, as well as countries with economies in transition, excessive debt servicing has severely constrained their capacity to promote social development and provide basic services to realize economic, social and cultural rights,

Expressing its concern that, despite repeated rescheduling of debt, developing countries continue to pay out more each year than the actual amount they receive in official development assistance,

Affirming that the debt burden further complicates the numerous problems facing developing countries, contributes to extreme poverty, is an obstacle to sustainable human development and is thus a serious impediment to the realization of all human rights,

1. *Takes note with appreciation* of the report of the independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights (E/CN.4/2005/42 and Add.1), and stresses that structural adjustment reform programmes have serious implications for the ability of the

developing countries to abide by the Declaration on the Right to Development and to formulate national development policies that aim to improve the economic, social and cultural rights of their citizens;

2. *Welcomes* the proposals of the independent expert for elements of basic principles and for action at the national and international levels in the development of draft general guidelines to be followed by States and by private and public, national and international financial institutions in the decision-making on and execution of debt repayments and structural reform programmes, including those arising from foreign debt relief, and encourages the independent expert to continue to take into account in this regard the relevant past and new initiatives of the General Assembly, the Sub-Commission on the Promotion and Protection of Human Rights and the Commission on Human Rights;

3. *Recalls* that every State has the primary responsibility to promote the economic, social and cultural development of its people, and to this end has the right and responsibility to choose its means and goals of development and should not be subject to external specific prescriptions for economic policy;

4. *Recognizes* that the structural adjustment reform programmes limit public expenditure, imposing fixed expenditure ceilings and give inadequate attention to the provision of social services, and that only a few countries manage to achieve sustainable higher growth under these programmes;

5. *Expresses its concern* at the fact that the options for macroeconomic policy of developing countries are constrained by demands for adjustment and that many countries, particularly in sub-Saharan Africa, still carry very high external debt burdens relative to their gross national product;

6. *Also expresses its concern* that the level of implementation and the reduction of the overall debt stock under the enhanced Heavily Indebted Poor Countries Initiative are still low, and that the Initiative is not intended to offer a comprehensive solution to the long-term debt burden;

7. *Reiterates its conviction* that for the heavily indebted poor countries to achieve debt sustainability, long-term growth and poverty reduction goals, the debt relief under the Initiative will not be sufficient and that additional resource transfers in the form of grants and concessional loans, as well as removal of trade barriers and better prices for their exports, would be required to ensure sustainability and permanent exit from debt overhang;

8. *Regrets* the absence of mechanisms to find appropriate solutions to the unsustainable foreign debt burden of middle-income and low-income heavily indebted countries, and that until now there has been little headway made in redressing the unfairness of the current system of debt resolution, which continues to place the interests of the lenders above those of indebted countries and the poor within them, and therefore calls for an intensification of efforts to devise effective and equitable mechanisms to cancel or reduce substantially the foreign debt burden of all developing countries, in particular those severely affected recently by the devastation of natural disasters, such as tsunamis and hurricanes, as well as by armed conflicts;

9. *Acknowledges* that in the least developed countries and in several low- and middle-income countries unsustainable levels of external debt continue to create a considerable barrier to economic and social development and increase the risk that the Millennium Development Goals regarding development and poverty reduction will not be attained;

10. *Recognizes* that debt relief can play a key role in liberating resources that should be directed towards activities consistent with attaining sustainable growth and development, including poverty reduction and the achievement of the development goals, including those set out in the United Nations Millennium Declaration, and therefore that debt relief measures, where appropriate, should be pursued vigorously and expeditiously, ensuring that they do not replace alternative sources of financing and that they are accompanied by an increase in official development assistance;

11. *Recalls once again* the call on industrialized countries, as expressed in the Millennium Declaration, to implement the enhanced programme of debt relief for the heavily indebted poor countries without further delay and to agree to cancel all official bilateral debts of those countries in return for their making demonstrable commitments to poverty reduction;

12. *Urges* the international community, including the United Nations system, and the Bretton Woods institutions, as well as the private sector, to take appropriate measures and actions for the implementation of the pledges, commitments, agreements and decisions of the major United Nations conferences and summits, including the Millennium Summit, the World Conference on Human Rights, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the World Conference on Sustainable Development and the International Conference on Financing for Development, in particular those relating to the question of the external debt problem of developing countries, in particular of heavily indebted poor countries, least developed countries and countries with economies in transition;

13. *Recalls* the pledge, contained in the Political Declaration contained in the annex to resolution S-24/2, adopted on 1 July 2000 by the General Assembly at its twenty-fourth special session, to find effective, equitable, development-oriented and durable solutions to the external debt and debt-servicing burdens of developing countries;

14. *Stresses* the need for the economic reform programmes arising from foreign debt to be country-driven and for any negotiations and conclusion of debt relief and new loan agreements to be formulated with public knowledge and transparency, with legislative frameworks, institutional arrangements and mechanisms for consultation being established to ensure the effective participation of all components of society, including people's legislative bodies and human rights institutions, and particularly of the most vulnerable or disadvantaged, in the design, application and evaluation of strategies, policies and programmes, as well as in the follow-up to and systematic national supervision of their implementation, and for macroeconomic and financial policy issues to be integrated, on an equal footing and in a consistent way, in the realization of the broader social development goals, taking into account the national context and the priorities and needs of the debtor countries to allocate resources in a way that ensures balanced development conducive to the overall realization of human rights;

15. *Also stresses* that the economic reform programmes arising from foreign debt should maximize the policy space of developing countries in pursuing their national development efforts, taking into account the views of relevant stakeholders in a way that ensures balanced development conducive to overall realization of all human rights;

16. *Further stresses* that the economic programmes arising from foreign debt relief and cancellation must not reproduce past structural adjustment policies that have not worked, such as dogmatic demands for privatization and reduced public services;

17. *Calls upon* States, the International Monetary Fund and the World Bank to continue to cooperate closely to ensure that additional resources made available through the Heavily Indebted Poor Countries Initiative, the Global Fund to Fight AIDS, Tuberculosis and Malaria and other new initiatives are absorbed in the recipient countries without affecting the ongoing programmes;

18. *Reaffirms* that the exercise of the basic rights of the people of debtor countries to food, housing, clothing, employment, education, health services and a healthy environment cannot be subordinated to the implementation of structural adjustment policies, growth programmes and economic reforms arising from the debt;

19. *Requests* the independent expert to explore further, in his analytical annual report to the Commission, the interlinkages with trade and other issues, including HIV/AIDS, when examining the impact of structural adjustment and foreign debt and also to contribute, as appropriate, to the process entrusted with the follow-up to the International Conference on Financing for Development, with a view to bringing to its attention the issue of the effects of structural adjustment and foreign debt on the enjoyment of human rights, particularly economic, social and cultural rights;

20. *Recalls* its requests to the independent expert, in the discharge of his mandate, to present to the Commission at its sixty-second session a final draft of general guidelines to be followed by States and by private and public, national and international financial institutions in the decision-making on and execution of debt repayments and structural reform programmes, including those arising from foreign debt relief, to ensure that compliance with the commitments derived from foreign debt will not undermine the obligations for the realization of fundamental economic, social and cultural rights, as provided for in the international human rights instruments;

21. *Requests* the independent expert to seek the views and suggestions of States, international organizations, United Nations agencies, funds and programmes, regional economic commissions, international and regional financial institutions and non-governmental organizations on the draft general guidelines and his proposal of possible elements for consideration and urges them to respond to his requests;

22. *Decides* to convene an expert consultation of three working days with the participation of experts from the United Nations Development Programme, the United Nations Population Fund, the United Nations Conference on Trade and Development, the Food and

Agriculture Organization of the United Nations, the International Labour Organization, the World Health Organization and other relevant United Nations agencies, the Committee on Economic, Social and Cultural Rights, the regional economic commissions, the international financial institutions, the special rapporteurs on economic, social and cultural rights, creditor and debtor States and non-governmental organizations to contribute to the independent expert's work to finalize the draft general guidelines;

23. *Also decides* to replace the phrase "effects of structural adjustment policies" by "effects of economic reform policies" in the title of the mandate of this current special procedure;

24. *Encourages* the independent expert to continue to cooperate, in accordance with his mandate, with the Committee on Economic, Social and Cultural Rights, special rapporteurs, independent experts and members of the expert working groups of the Commission and the Sub-Commission related to economic, social and cultural rights and the right to development, in his work towards the elaboration of the draft general guidelines;

25. *Requests* the independent expert to report to the General Assembly on the issue of the effects of economic reform policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights;

26. *Also requests* the independent expert to exchange views with the Sub-Commission expert charged with preparing a working paper on the effects of debt on human rights;

27. *Requests* the Secretary-General to provide the independent expert with all necessary assistance, in particular the staff and resources required to carry out his functions, as well as to facilitate his participation in and contribution to the follow-up process of the International Conference on Financing for Development, including in the multi-stakeholder consultations to be organized in 2005 on issues relevant to his mandate;

28. *Urges* Governments, international organizations, international financial institutions, non-governmental organizations and the private sector to cooperate fully with the independent expert in the discharge of his mandate;

29. *Urges* States, international financial institutions and the private sector to take urgent measures to alleviate the debt problem of those developing countries particularly affected by HIV/AIDS, so that more financial resources can be released and used for health care, research and treatment of the population in the affected countries;

30. *Reiterates its view* that, in order to find a durable solution to the debt problem and for the consideration of any new debt resolution mechanism, there is a need for a broad political dialogue between creditor and debtor countries and the multilateral financial institutions, within the United Nations system, based on the principle of shared interests and responsibilities;

31. *Reiterates its request* to the United Nations High Commissioner for Human Rights to pay more attention to the problem of the debt burden of developing countries, in particular of the least developed countries, and especially the social impact of the measures arising from foreign debt;

32. *Decides* to continue the consideration of this matter at its sixty-second session under the same agenda item.

50th meeting
14 April 2005
[Adopted by a recorded vote of 33 votes to 14,
with 6 abstentions. See chap. X.]

2005/20. Promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities

The Commission on Human Rights,

Recalling the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, as well as other pertinent human rights instruments,

Recalling also its resolution 2004/20 of 16 April 2004,

Noting that numerous declarations within the United Nations system promote respect for cultural diversity, as well as for international cultural cooperation, in particular the Declaration of the Principles of International Cultural Cooperation and the United Nations Educational, Scientific and Cultural Organization Universal Declaration on Cultural Diversity, adopted by its General Conference in 1966 and 2001 respectively,

Emphasizing the responsibilities of all States, in conformity with the Charter of the United Nations, to develop and encourage respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Stressing the importance of the promotion of the cultural rights of everyone and of respect for different cultural identities,

Convinced that international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all should be based on a profound understanding of the variety of problems existing in different societies, on full respect for their economic, social and cultural realities and on the full realization and recognition of the universality of all human rights and the principles of freedom, justice, equality and non-discrimination,

Reaffirming the interdependence and the mutually reinforcing nature of democracy, development and respect for human rights and fundamental freedoms,

Reaffirming also that cultural diversity is a cherished asset for the advancement and welfare of humanity at large and should be valued, enjoyed, genuinely accepted and embraced as a permanent feature which enriches our societies, *Recalling* the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted on 14 November 1970 by the General Conference of the United Nations Educational, Scientific and Cultural Organization, and the Convention on Stolen or Illegally Exported Cultural Objects, adopted on 24 June 1995 by the International Institute for the Unification of Private Law,

Aware of the importance attached by the countries of origin to the return of cultural property which is of fundamental spiritual and cultural value to them, so that they may constitute collections representative of their cultural heritage,

Expressing its concern about the illicit traffic of cultural property and its damage to the cultural heritage of nations,

Expressing its determination to prevent and mitigate cultural homogenization in the context of globalization, through increased intercultural exchange guided by the promotion and protection of cultural diversity,

1. *Reaffirms* that cultural rights are an integral part of human rights, which are universal, indivisible and interdependent;

2. *Reiterates* that everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits;

3. *Also reiterates* that everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he/she is the author;

4. *Affirms* that each culture has a dignity and value which must be respected and preserved and that every people has the right and the duty to develop its culture;

5. *Recognizes* that States have the primary responsibility for the promotion of the full enjoyment of cultural rights by everyone and for the enhancement of respect for different cultural identities;

6. *Stresses* that cultural cooperation shall contribute to the establishment of stable, long-term relations between peoples, which should be subjected as little as possible to the strains which may arise in international life;

7. *Recognizes* that the promotion and protection of the full enjoyment of cultural rights by everyone and the respect for different cultural identities are vital elements for the protection of cultural diversity in the context of the ongoing process of globalization;

8. *Reaffirms* that all peoples have the right of self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development;

9. *Underlines* the importance of cultural cooperation for all peoples and all nations, which should share with one another their knowledge and skills, and that international cooperation, while promoting the enrichment of all cultures through its beneficent action, should respect the distinctive character of each;

10. *Emphasizes* that cultural cooperation is especially concerned with the moral and intellectual education of young people in a spirit of friendship, international understanding and peace and should foster awareness among States of the need to stimulate talent and promote the training of the rising generations in the most varied sectors;

11. *Recognizes* that the promotion and protection of cultural diversity imply a commitment to human rights and fundamental freedoms guaranteed by international law and advances the application and the enjoyment of cultural rights by everyone;

12. *Also recognizes* that broad dissemination of ideas and knowledge, based on the freest exchange and discussion, is essential to creative activity, the pursuit of truth and the development of the personality of everyone and the identity of all peoples;

13. *Further recognizes* that the promotion of the cultural rights of everyone, of respect for the distinct cultural identities of peoples and of protection of the cultural diversity of humanity advances the implementation and enjoyment of all human rights by all;

14. *Stresses* that, in the face of current imbalances in flows and exchanges of cultural goods and services at the global level, it is necessary to reinforce international cooperation and solidarity aimed at enabling all countries, especially developing countries and countries in transition, to establish cultural industries that are viable and competitive at national and international levels;

15. *Underlines* that market forces alone cannot guarantee the preservation and promotion of cultural diversity, which is the key to sustainable human development, and from this perspective recognizes that the pre-eminence of public policy, in partnership with the private sector and civil society, must be reaffirmed;

16. *Calls upon* States and intergovernmental and non-governmental organizations to take appropriate measures and action for the implementation of the present resolution;

17. *Expresses its appreciation* to States and intergovernmental and non-governmental organizations that responded to the consultations held pursuant to its resolutions 2002/26 of 22 April 2002, 2003/26 of 22 April 2003 and 2004/20;

18. *Underlines* that those consultations highlighted the importance for the Commission to enhance the visibility and understanding of cultural rights and the issue of cultural diversity, and confirmed support for the concept that the creation of a thematic procedure could contribute to the achievement of that objective;

19. *Reaffirms* that the objective of the establishment of a thematic procedure on the promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities is not to develop a new monitoring mechanism, but to appoint an independent expert who could elaborate concrete proposals and recommendations on the implementation of the present resolution, taking into account the work already done in this field by other bodies, organs and organizations of the United Nations system;

20. *Requests* the United Nations High Commissioner for Human Rights to consult States and intergovernmental and non-governmental organizations on the particularities and scope of the mandate of an independent expert on the promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities, the basis of which would be the comprehensive implementation of the present resolution, and to report on the results of those consultations to the Commission at its sixty-second session;

21. *Underlines* that it is important to avoid overlapping with the activities of the United Nations Educational, Scientific and Cultural Organization and other bodies and organizations of the United Nations system when establishing the mandate of the independent expert and to bear in mind the significance of encouraging synergy between all actors dealing with cultural rights and the issue of cultural diversity;

22. *Decides* to continue its consideration of this matter at its sixty-second session, under the same agenda item.

50th meeting
14 April 2005
[Adopted by a recorded vote of 39 votes to 1,
with 13 abstentions. See chap. X.]

2005/21. The right to education

The Commission on Human Rights,

Recalling its previous resolutions on the right to education, inter alia, resolution 2004/25 of 16 April 2004,

Recalling also that everyone shall enjoy the human right to education, which is enshrined, inter alia, in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

Recalling further the Convention against Discrimination in Education adopted on 14 December 1960 by the United Nations Educational, Scientific and Cultural Organization, which prohibits any discrimination that has the purpose or effect of nullifying or impairing equality of treatment in education,

Bearing in mind the relevant provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities adopted by the General Assembly on 18 December 1992,

Recalling the Dakar Framework for Action adopted at the World Education Forum, held in Dakar in April 2000, and the goals agreed upon at its adoption, *Recalling also* that in the United Nations Millennium Declaration, it is resolved that children everywhere, boys and girls alike, will be able to complete a full course of primary schooling and that girls and boys will have equal access to all levels of education by 2015, and emphasizing the importance of realizing the right to education in attaining the Millennium Development Goals,

Affirming that the realization of the right to education, especially for girls, contributes to the eradication of poverty,

Welcoming the attention given to education in the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Recalling the outcome document of the twenty-seventh special session of the General Assembly on children, entitled "A world fit for children", annexed to its resolution S-27/2 of 10 May 2002, and its emphasis on education as a human right and the provision of quality education as a key factor in reducing poverty and child labour and promoting democracy, peace, tolerance and development,

Deeply concerned that some 120 million children, two thirds of whom are girls, have no access to education,

Recognizing the important role that educational institutions can play in preventing and detecting all forms of abuse and physical or mental violence against children,

Affirming that good governance and the rule of law will assist all States to promote and protect human rights, including the right to education,

Bearing in mind the need for adequate financial resources so that everyone can realize their right to education, and the importance in this regard of national resource mobilization, as well as international cooperation,

1. *Welcomes* the report of the Special Rapporteur on the right to education (E/CN.4/2005/50) and the report of the Secretary-General on economic, social and cultural rights (E/CN.4/2005/39);

2. *Notes with interest* the work carried out by the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child in the promotion of the right to education, notably general comments No. 11 (1999) on plans of action for primary education (article 14 of the International Covenant on Economic, Social and Cultural Rights) and No. 13 (1999) on the right to education (article 13 of the Covenant), adopted by the Committee on Economic, Social and Cultural Rights, general comment No. 1 (2001) of the Committee on the Rights of the Child on the aims of education (article 29, paragraph 1, of the Convention on the Rights of the Child) and the recommendations concerning the right to education issued as a result of the day of general discussion on implementing child rights in early childhood, adopted by that Committee at its thirty-seventh session (see CRC/C/143, chap. VII);

3. *Welcomes* the proclamation by the General Assembly of the World Programme for Human Rights Education, which began on 1 January 2005, and the continued progress of the United Nations Literacy Decade launched on 13 February 2003;

4. *Commends* the collaboration between the United Nations Educational, Scientific and Cultural Organization and the Office of the United Nations High Commissioner for Human Rights;

5. *Welcomes* the second meeting of the Joint Expert Group of the United Nations Educational, Scientific and Cultural Organization and the Committee on Economic, Social and Cultural Rights on the Monitoring of the Right to Education, held in May 2004 to continue discussions on how collaboration between the United Nations Educational, Scientific and Cultural Organization and the Economic and Social Council in monitoring and promoting the right to education could be further strengthened, and encourages continued collaboration between these two bodies;

6. *Also welcomes* the contribution of the United Nations Children's Fund, as well as that of the United Nations Educational, Scientific and Cultural Organization, towards attaining the Millennium Development Goal of eliminating gender disparity in primary and secondary education, preferably by 2005, and at all levels of education no later than 2015, especially in the twenty-five countries that are experiencing the greatest difficulties in meeting the target;

7. *Urges* all States:

(*a*) To give full effect to the right to education and to guarantee that this right is recognized and exercised without discrimination of any kind;

(*b*) To take all appropriate measures to eliminate obstacles limiting effective access to education, notably by girls, including pregnant girls, children living in rural areas, children belonging to minority groups, indigenous children, migrant children, refugee children, internally displaced children, children affected by armed conflicts, children with disabilities, children affected by infectious diseases, including HIV/AIDS, sexually exploited children, children deprived of their liberty, children living in the street, working children and orphaned children:

- Taking all necessary legislative measures to prohibit explicitly discrimination in education on the basis of race, colour, descent, national, ethnic or social origin, sex, language, religion, political or other opinion, property, disability, birth or other status which has the purpose or effect of nullifying or impairing equality of treatment in education;

(*c*) To improve all aspects of the quality of education aimed at ensuring excellence of all so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills, and, in this regard, to emphasize the development of quality indicators and monitoring instruments, to promote a sound school environment, school health, education on reproductive health issues, preventive education against HIV/AIDS and drug abuse, and science and technology education, and to carry out surveys and build up a knowledge base in order to provide advice on the use of information and communication technologies in education;

(*d*) To promote the renewal and expansion of basic formal education of good quality, which includes both early childhood care and education and primary education, using inclusive and innovative approaches to increase access and attendance for all, for example by providing a minimum monthly income to the families of poor children attending school on a regular basis or free meals for children attending school;

(*e*) To mainstream human rights education in educational activities, in order to strengthen respect for human rights and fundamental freedoms;

(*f*) To enhance the status, morale and professionalism of teachers and to address shortages of qualified teachers;

(*g*) To recognize and promote lifelong learning for all, both in formal and in informal settings;

(*h*) To ensure progressively and on the basis of equal opportunity that primary education is compulsory, accessible and available free to all;

(*i*) To adopt all necessary measures to close the gap between the school-leaving age and the minimum age for employment, including by raising the minimum age for employment and/or raising the school-leaving age when necessary, and to ensure access to free basic education and, wherever possible and appropriate, vocational training for all children liberated from the worst forms of child labour;

(*j*) To adopt effective measures to encourage regular attendance at school and reduce school dropout rates;

(*k*) To support domestic literacy programmes, including vocational education components and non-formal education, in order to reach marginalized children, youth and adults, especially girls and women, to ensure that they enjoy the right to education and acquire the life skills necessary to overcome poverty and exclusion;

(*l*) To support the implementation of plans and programmes of action to ensure quality education and improved enrolment and retention rates for boys and girls and the elimination of gender discrimination and gender stereotypes in educational curricula and materials, as well as in the process of education;

(*m*) To adapt education, if necessary, in order to suit the specific needs of women, girls and teenagers;

(*n*) To take all appropriate legislative, administrative, social and educational measures, in accordance with the best interest of the child, to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse in schools, and in this context to take measures to eliminate corporal punishment in schools, and to incorporate in their legislation appropriate sanctions for violations and the provision of redress and rehabilitation for victims;

(*o*) To consider undertaking or supporting studies on best practices for elaborating and implementing strategies for improving the quality of education and meeting the learning needs of all;

(*p*) To give appropriate priority to the collection of quantitative and qualitative data relating to disparities in education, including gender disparities;

(*q*) To submit information on best practices for the elimination of discrimination in access to education, as well as for the promotion of quality education, to the Special Rapporteur;

(*r*) To ensure that no child is prevented from receiving free primary education on account of his or her disability;

(*s*) To contribute to efforts to mobilize resources by the international community to assist all States to achieve the goal of education for all children by 2015;

8. *Invites* the Special Rapporteur, within his mandate:

(*a*) To gather, request, receive and exchange information from all relevant sources, including Governments, intergovernmental organizations and non-governmental organizations, on the realization of the right to education, and to make recommendations on appropriate measures to promote and protect the realization of the right to education;

(*b*) To intensify efforts aimed at identifying ways and means to overcome obstacles and difficulties in the realization of the right to education;

(*c*) To pursue the collaboration with the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child and the cooperation with the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization, the International Labour Organization and the Office of the United Nations High Commissioner for Refugees, and the dialogue with the World Bank;

(*d*) To cooperate with other special rapporteurs, representatives, experts and members and chairpersons of working groups of the Commission, and United Nations bodies, including human rights treaty bodies;

(*e*) To review the interdependence and interrelatedness of the right to education with other human rights;

(*f*) To apply a gender perspective in his work;

9. *Reaffirms* the importance of developing further the regular dialogue between the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization, other partners that pursue the goals of the Dakar Framework for Action and the Special Rapporteur, with a view to integrating further the right to education into the operational activities of the United Nations system, invites them to pursue that dialogue and reiterates its invitation to the United Nations Children's Fund and the United Nations Educational, Scientific and Cultural Organization to submit to the Commission information pertaining to their activities in promoting primary education, with specific reference to women and children, particularly girls;

10. *Requests* all States to continue cooperating with the Special Rapporteur with a view to facilitating his tasks in the discharge of his mandate, and to respond favourably to his requests for information and visits;

11. *Invites* the United Nations Development Programme, the United Nations Children's Fund and the United Nations Educational, Scientific and Cultural Organization to assist the Special Rapporteur in promoting further the development of indicators on the right to education, in cooperation with States and relevant international organizations and non-governmental organizations;

12. *Requests* the Special Rapporteur to report to the Commission at its sixty-second session;

13. *Requests* the Secretary-General to provide the Special Rapporteur with all the assistance necessary for the execution of his mandate;

14. *Decides* to consider the right to education at its sixty-second session under the same agenda item.

51st meeting
15 April 2005
[Adopted without a vote. See chap. X.]

2005/22. Question of the realization in all countries of economic, social and cultural rights

The Commission on Human Rights,

Guided by the principles relating to economic, social and cultural rights enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling that in the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), the World Conference encouraged the Commission to continue the examination of optional protocols to the International Covenant on Economic, Social and Cultural Rights,

Recalling also previous resolutions of the Commission on Human Rights and of the Sub-Commission for the Promotion and Protection of Human Rights on the realization of economic, social and cultural rights,

Taking note with interest of the ongoing new efforts towards the realization of economic, social and cultural rights, and considering that, to ensure the realization of economic, social and cultural rights and the removal of obstacles thereto at all levels, additional efforts should be examined,

1. *Takes note with interest* of the report of the Secretary-General on the implementation of its resolution 2004/29 of 19 April 2004 (E/CN.4/2005/39) and of all other relevant reports of the United Nations High Commissioner for Human Rights on economic, social and cultural rights and the activities of intergovernmental and non-governmental organizations in that regard;

2. *Recalls* the entry into force of the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, of the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) and of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and calls upon all States to consider signing and ratifying these instruments and upon the States parties to implement them fully;

3. *Notes with interest*:

(*a*) The work carried out by the Committee on Economic, Social and Cultural Rights to assist States parties in fulfilling their obligations, including through:

- (i) The development and adoption of general comments, in order to assist in clarifying the content and scope of the articles of the International Covenant on Economic, Social and Cultural Rights;
- (ii) The discussions held by the Committee at its thirty-second and thirty-third sessions on draft general comments, notably on article 3 (the equal right of men and women to the enjoyment of all economic, social and cultural rights), and on article 6 (the right to work) of the Covenant;

(*b*) The work of the Committee on the Rights of the Child in the promotion of the economic, social and cultural rights of children;

(*c*) Efforts of the High Commissioner to promote economic, social and cultural rights, inter alia within the United Nations Development Group;

(*d*) The elaboration of training programmes in the Office of the United Nations High Commissioner to develop in-house expertise in incorporating economic, social and cultural rights in technical cooperation projects, and encourages the Office to enhance the incorporation of economic, social and cultural rights in its technical cooperation programmes and in the work of its field offices;

4. *Welcomes* the activities carried out by the Office of the High Commissioner on the promotion of economic, social and cultural rights, which have included awareness-raising on the importance of economic, social and cultural rights, contributing to the implementation of internationally agreed development goals, including those contained in the United Nations Millennium Declaration, and several inter-agency activities and regional initiatives exploring the legal content and justiciability of these rights;

5. *Takes note with interest* of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (E/CN.4/2005/48, Add.1 and Corr.1, and Add.2-3) and of his report containing a study on women and adequate housing (E/CN.4/2005/43);

6. *Welcomes*:

(*a*) Ongoing efforts by the General Assembly and the Economic and Social Council towards a coordinated follow-up to relevant United Nations conferences and summits;

(*b*) Regional initiatives to promote the further realization of economic, social and cultural rights;

(*c*) The inclusion of the issue of the realization of economic, social and cultural rights in the Durban Declaration and Programme of Action adopted on 8 September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1), in which States underscored, inter alia, the need to design, promote and implement at the national, regional and international levels strategies, programmes and policies, and adequate legislation, which may include special and positive measures, for furthering equal social development and the realization of the civil and political, economic, social and cultural rights of all victims of racism, racial discrimination, xenophobia and related intolerance;

(*d*) The inclusion of the issue of the realization of economic, social and cultural rights in the document entitled "A world fit for children", adopted by the General Assembly in the annex to its resolution S-27/2 of 10 May 2002 during its twenty-seventh special session on children, in which participating States agreed to implement the Plan of Action and to that end to consider establishing or strengthening measures such as national legislation, policies and action plans to fulfil and protect rights and to secure the well-being of children, and national bodies or other institutions for the promotion and protection of the rights of the child;

7. *Also welcomes* the activities and efforts of non-governmental organizations in raising awareness, and their important contributions to the question of the realization and enjoyment of economic, social and cultural rights;

8. *Recalls* the proclamation, by the General Assembly in its resolution 58/217 of 23 December 2003, of the International Decade for Action, "Water for Life", 2005-2015, and in this context also recalls general comment No. 15 (2002) on the right to water (articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), adopted by the Committee on Economic, Social and Cultural Rights;

9. *Reaffirms*:

(*a*) That, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his or her economic, social and cultural rights, as well as his or her civil and political rights;

(*b*) The inextricable link between full respect for the rights contained in the International Covenant on Economic, Social and Cultural Rights and the process of development, the central purpose of which is the realization of the potentialities of the human person with the effective participation of all members of society in relevant decision-making processes as agents and beneficiaries of development, as well as with a fair distribution of its benefits;

(*c*) That all persons in all countries are entitled to the realization of their economic, social and cultural rights, which are indispensable to their dignity and the free development of their personality;

(*d*) The universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and that promoting and protecting one category of rights should therefore never exempt or excuse States from the promotion and protection of other rights;

(*e*) The importance of international cooperation in assisting Governments to fulfil their obligation to protect and promote all human rights, including economic, social and cultural rights, while emphasizing that the first responsibility for promoting and protecting human rights lies with States;

(*f*) That the realization of all human rights and fundamental freedoms, and particularly economic, social and cultural rights, is a dynamic process and that, as is evident in today's world, a great deal remains to be accomplished;

10. *Calls upon* all States:

(*a*) To give full effect to economic, social and cultural rights;

(*b*) To consider signing and ratifying, and the States parties to implement, the International Covenant on Economic, Social and Cultural Rights;

(*c*) To guarantee that economic, social and cultural rights will be exercised without discrimination of any kind;

(*d*) To secure progressively, through national development policies and with international assistance and cooperation, full realization of economic, social and cultural rights, giving particular attention to the individuals, most often women and children, especially girls, and communities living in extreme poverty and therefore most vulnerable and disadvantaged;

(*e*) To consider in this context, as appropriate, the draft guidelines on the integration of human rights into poverty reduction strategies and the desirability of drawing up national action plans identifying steps to improve the situation of human rights in general with specific benchmarks designed to give effect to minimum essential levels of enjoyment of economic, social and cultural rights;

(*f*) To help alleviate the unsustainable external debt burden of countries that meet the criteria of the Heavily Indebted Poor Countries Initiative, which should further strengthen the efforts of the Governments of these countries to realize economic, social and cultural rights, inter alia through the development and implementation of programmes, as well as the prevention of the spread of the HIV/AIDS pandemic in Africa and the reconstruction of countries affected by natural disasters;

(*g*) To promote the effective and wide participation of representatives of civil society in decision-making processes related to the promotion and protection of economic, social and cultural rights, including through efforts to identify and strengthen good governance practices - transparent, responsible and participatory government which is responsive to the needs and aspirations of all sections of society;

11. *Calls upon* the States parties to the International Covenant on Economic, Social and Cultural Rights:

(*a*) To withdraw reservations incompatible with the object and purpose of the Covenant and to consider reviewing other reservations with a view to withdrawing them;

(*b*) To promote a concerted national effort to ensure the participation of representatives of all sectors of civil society in the process of preparation of their periodic reports to the Committee on Economic, Social and Cultural Rights and in the implementation of the recommendations of the Committee;

(*c*) To submit their reports to the Committee in a regular and timely manner;

(*d*) To ensure that the Covenant is taken into account in all of their relevant national and international policy-making processes;

12. *Recalls* that international cooperation in solving international problems of an economic, social and cultural character and in promoting and encouraging respect for human rights and fundamental freedoms for all is one of the purposes of the United Nations, and affirms that wider international cooperation would contribute to lasting progress in implementing economic, social and cultural rights;

13. *Decides*:

(*a*) To encourage the Committee on Economic, Social and Cultural Rights to continue its efforts towards the promotion, protection and full realization of the rights enshrined in the International Covenant on Economic, Social and Cultural Rights, at the national and international levels, notably by:

(i) Enhancing its cooperation with United Nations specialized agencies, programmes, special mechanisms and the other human rights treaty bodies and other bodies working on issues that bear upon the Covenant;

(ii) Drafting further general comments to assist and promote the further implementation by States parties of the Covenant, and making the experience gained through the examination of States parties' reports available for the benefit of all States parties;

(*b*) To encourage all United Nations specialized agencies and programmes, relevant special mechanisms of the Commission and other United Nations bodies, including human rights treaty bodies whose activities bear upon economic, social and cultural rights, to enhance their cooperation and, as appropriate, increase coordination with the Committee in a manner that respects their distinctive mandates and promotes their policies, programmes and projects;

(*c*) To encourage the Office of the High Commissioner to continue its cooperation with other United Nations agencies as part of the integration of economic, social and cultural rights within the United Nations system;

(*d*) To encourage the High Commissioner to strengthen the research and analytical capacities of her Office in the field of economic, social and cultural rights and to share her expertise, inter alia through the holding of expert meetings;

(*e*) To encourage the High Commissioner to continue to ensure better support for the Committee, in particular under the Programme of Action to strengthen the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1997/22-E/C.12/1996/6, annex VII) adopted by the Committee at its fifteenth session;

(*f*) To encourage the High Commissioner to continue to provide or to facilitate practical support aimed at building capacities for the full realization of economic, social and cultural rights;

(*g*) To support the efforts by the High Commissioner to implement the proposed Programme of Action designed to enhance the ability of the Committee to assist interested Governments in their reporting obligations and its capacity to process and follow up the examination of States parties' reports and, accordingly, to request States parties to the Covenant to make voluntary financial contributions to ensure the adequate implementation of that Programme of Action;

14. *Welcomes* the report of the open-ended Working Group of the Commission established with the view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights (E/CN.4/2005/52);

15. *Requests* the Working Group to report to the Commission at its sixty-second session;

16. *Requests* the Secretary-General to submit to the Commission at its sixty-second session a report on the implementation of the present resolution;

17. *Decides* to continue consideration of this subject at its sixty-second session under the same agenda item.

51st meeting
15 April 2005
[Adopted by a recorded vote of 50 votes to none,
with 3 abstentions. See chap. X.]

2005/23. Access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria

The Commission on Human Rights,

Reaffirming the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Reaffirming also that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right, *Recalling* its resolutions 1999/49 of 27 April 1999, 2001/33 of 23 April 2001, 2001/51 of 24 April 2001, 2002/32 of 22 April 2002, 2003/29 of 22 April 2003 and 2004/26 of 16 April 2004,

Bearing in mind World Health Assembly resolutions WHA55.12 entitled "Contribution of WHO to the follow-up of the United Nations General Assembly special session on HIV/AIDS", and WHA55.14 entitled "Ensuring accessibility of essential medicines", both adopted on 18 May 2002, and World Health Assembly resolutions WHA56.27 entitled "Intellectual property rights, innovation and public health" and WHA56.30 entitled "Global health-sector strategy for HIV/AIDS", both adopted on 28 May 2003 and resolution WHA57.14 entitled "Scaling up treatment and care within a coordinated and comprehensive response to HIV/AIDS" adopted on 22 May 2004,

Recalling the establishment of the Commission on Intellectual Property Rights, Innovation and Public Health by the World Health Organization,

Acknowledging that prevention and comprehensive care and support, including treatment and access to medication for those infected and affected by pandemics such as HIV/AIDS, tuberculosis and malaria are inseparable elements of an effective response and must be integrated into a comprehensive approach to respond to such pandemics,

Recalling general comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the International Covenant on Economic, Social and Cultural Rights), adopted by the Committee on Economic, Social and Cultural Rights at its twenty-second session,

Recalling also general comment No. 3 (2003) on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child at its thirty-second session,

Noting with great concern that, according to the Joint United Nations Programme on HIV/AIDS (UNAIDS), the HIV/AIDS pandemic claimed an estimated 3.1 million lives in 2004,

Alarmed that, according to the same source, about 40 million people were living with HIV by the end of 2004 and that an estimated 5 million people were newly infected with HIV in 2004,

Alarmed also that, according to information provided jointly by UNAIDS, the United Nations Children's Fund and the United States Agency for International Development, in July 2002, it is projected that 25 million children under the age of 15 will lose one or both parents owing to HIV/AIDS by 2010, 20 million of whom will reside in Africa,

Taking note of General Assembly resolution 59/256, entitled "2001-2010: Decade to Roll Back Malaria in Developing Countries, Particularly in Africa", adopted on 23 December 2004,

Alarmed that, according to the global Roll Back Malaria partnership, malaria annually causes more than 1 million preventable deaths, about 90 per cent of which are in Africa, that malaria is the leading cause of death in young children and that it causes at least 300 million cases of acute illness each year, *Alarmed also* that, according to the World Health Organization report of 2004 entitled *Global Tuberculosis Control: Surveillance, Planning, Financing*, tuberculosis kills about 2 million people each year, more than 8 million people around the world become sick with tuberculosis each year, and it is projected that between 2002 and 2020, 36 million people will die of tuberculosis if control is not further strengthened,

Acknowledging the significance of HIV/AIDS in the increase in tuberculosis and other opportunistic infections,

Alarmed that, according to the World Health Organization, one third of the world's population still lacks access to essential medicines and that in the poorest parts of Africa and Asia, over half of the population lacks access to even the most basic essential drugs,

Welcoming the initiatives of the Secretary-General and relevant United Nations agencies, developed and developing countries, and the private sector to make drugs related to HIV/AIDS, tuberculosis and malaria more accessible to developing countries, and noting that much more can be done in this regard,

Recalling the Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and Public Health adopted at the Fourth Ministerial Conference of the World Trade Organization in Doha in November 2001,

Recalling also the decision on the implementation of paragraph 6 of the Declaration on the TRIPS Agreement and Public Health, adopted by the General Council of the World Trade Organization on 30 August 2003,

Recognizing the existing efforts and need to further promote the transfer of technology and capacity-building to countries with insufficient or no manufacturing capacities in the pharmaceutical sector, in accordance with applicable international law, including international agreements acceded to,

Stressing the importance of fully implementing the Declaration of Commitment on HIV/AIDS, "Global Crisis - Global Action", adopted by the General Assembly in its resolution S-26/2 of 27 June 2001 at its special session on HIV/AIDS, and recalling the report of the Secretary-General on progress towards implementation of the Declaration of Commitment on HIV/AIDS (A/58/184),

Expressing its support for the work of the Global Fund to Fight AIDS, Tuberculosis and Malaria and of other international bodies combating such pandemics, and encouraging the Global Fund to develop further effective and appropriate processes for the disbursement of funds,

Recalling the goal of the World Health Organization and UNAIDS which aims to support developing countries in securing access to antiretroviral treatment for 3 million people living with HIV/AIDS by the end of 2005, noting the importance of mobilizing financial contributions from States and other donors and the need to think beyond the 2005 target, *Taking note* of the World Health Organization's initiatives to make safe, effective and affordable medicines and diagnostics of good quality more easily accessible to developing countries and countries with economies in transition,

Recalling the need to strengthen the prevention aspect in the fight against pandemics such as HIV/AIDS, tuberculosis and malaria,

Recognizing that the spread of HIV/AIDS can have a uniquely devastating impact on all sectors and levels of society and stressing that the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security, as stated in Security Council resolution 1308 (2000) of 17 July 2000,

Emphasizing, in view of the increasing challenges presented by pandemics such as HIV/AIDS, tuberculosis and malaria, the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all, including by reducing vulnerability to pandemics such as HIV/AIDS, tuberculosis and malaria and by preventing related discrimination and stigma,

1. *Recognizes* that access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria is one fundamental element for achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

2. *Calls upon* States to consider taking into account the guidelines elaborated at the Second International Consultation on HIV/AIDS and Human Rights held in Geneva from 23 to 25 September 1996 (E/CN.4/1997/37, annex I), as well as the revision of guideline 6 at the Third International Consultation, held on 25 and 26 July 2002;

3. *Also calls upon* States to develop and implement national strategies, in accordance with applicable international law, including international agreements acceded to, in order to progressively realize access for all to prevention-related goods, services and information as well as access to comprehensive treatment, care and support for all individuals infected and affected by pandemics such as HIV/AIDS, tuberculosis and malaria;

4. *Further calls upon* States to establish or strengthen national health and social infrastructures and health-care systems, with the assistance of the international community as necessary, for the effective delivery of prevention, treatment, care and support to respond to pandemics such as HIV/AIDS, tuberculosis and malaria;

5. *Affirms* the importance of public health interests in both pharmaceutical and health policies;

6. *Calls upon* States to pursue policies, in accordance with applicable international law, including international agreements acceded to, which would promote:

(*a*) The availability, in sufficient quantities, of pharmaceutical products and medical technologies used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis and malaria or the most common opportunistic infections that accompany them;

(*b*) The accessibility and affordability for all without discrimination, including the most vulnerable or socially disadvantaged groups of the population, as well as infants and children, of pharmaceutical products or medical technologies used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them;

(*c*) The assurance that pharmaceutical products or medical technologies used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them, irrespective of their sources and countries of origin, are scientifically and medically appropriate and of good quality;

7. *Also calls upon* States, at the national level, on a non-discriminatory basis, in accordance with applicable international law, including international agreements acceded to:

(*a*) To refrain from taking measures which would deny or limit equal access for all persons to preventive, curative or palliative pharmaceutical products or medical technologies, including microbicides and male and female condoms, used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them;

(*b*) To adopt and implement, as appropriate, legislation or other measures affecting public health, in accordance with applicable international law, including international agreements acceded to, to safeguard access to such preventive, curative or palliative pharmaceutical products or medical technologies from any limitations by third parties;

(*c*) To adopt all appropriate positive measures, to the maximum of the resources allocated for this purpose, to promote effective access to such preventive, curative or palliative pharmaceutical products or medical technologies;

8. *Further calls upon* States, in furtherance of the Declaration of Commitment on HIV/AIDS, to address factors affecting the provision of drugs related to the treatment of pandemics such as HIV/AIDS and the most common opportunistic infections that accompany them, as well as to develop integrated strategies to strengthen health-care systems;

9. *Urges* States to develop and implement national health policies that monitor the use of medications, diagnoses and related technologies, to ensure informed consent and confidentiality in conducting HIV testing and counselling, and to strengthen laboratory capacities and the training of health-care providers and technicians;

10. *Calls upon* States to adopt effective measures to prevent mother-to-child transmission of HIV and to facilitate access to antiretroviral therapy, safe delivery practices and breast-milk substitutes, where feasible and safe;

11. *Also calls upon* States to take all appropriate measures, nationally and through cooperation, to promote research and development of new and more effective preventive, curative or palliative pharmaceutical products and diagnostic tools, in accordance with applicable international law, including international agreements acceded to;

12. *Further calls upon* States, at the international level, to take steps, individually and/or through international cooperation, in accordance with applicable international law, including international agreements acceded to, such as:

(*a*) To facilitate, wherever possible, access in other countries to essential preventive, curative or palliative pharmaceutical products or medical technologies used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis and malaria and the most common opportunistic infections that accompany them, as well as to extend the necessary cooperation, wherever possible, especially in times of emergency;

(*b*) To ensure that their actions as members of international organizations take due account of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and that the application of international agreements is supportive of public health policies that promote broad access to safe, effective and affordable preventive, curative or palliative pharmaceutical products and medical technologies;

13. *Urges* States to consider, whenever necessary, enacting appropriate national legislation in order to use to the fullest extent the flexibilities contained in the TRIPS Agreement and encourages States to take into account such flexibilities when entering into international trade agreements that may affect public health;

14. *Calls upon* States to conduct an impact assessment of the effects of international trade agreements with regard to public health and to the progressive realization of the right of everyone to the highest attainable standard of health;

15. *Welcomes* the financial contributions made to date to the Global Fund to Fight AIDS, Tuberculosis and Malaria, urges that further contributions be made by States and other donors, and also calls upon all States to encourage the private sector to increase their contributions to the Fund as a matter of urgency;

16. *Calls upon* all States and other donors to cooperate in supporting the "3 by 5" Initiative launched jointly by the World Health Organization and UNAIDS with the aim of providing antiretroviral treatment to 3 million people in the developing world by the end of 2005;

17. *Calls upon* international organizations, agencies and programmes to mobilize further resources to combat pandemics such as HIV/AIDS, tuberculosis and malaria, and calls upon all Governments to take measures to ensure that the necessary resources are made available for that purpose;

18. *Calls upon* States to ensure that those at risk of contracting malaria, in particular pregnant women and children under five years of age, benefit from the most suitable combination of personal and community protective measures, such as insecticide-treated bed nets, indoor residual spraying and other interventions that are accessible and affordable, in order to prevent infection and suffering, and to support expanded access to artemisinin-based combination therapy;

19. *Also calls upon* States to provide the necessary support for the World Health Organization "Roll Back Malaria" and "Stop TB" partnerships in ongoing measures to combat malaria and tuberculosis;

20. *Calls upon* the international community, the developed countries in particular, to continue to assist the developing countries in the fight against pandemics such as HIV/AIDS, tuberculosis and malaria through financial and technical support, as well as through the training of personnel;

21. *Invites* the Committee on Economic, Social and Cultural Rights also to give attention to the issue of access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria, and invites States to include appropriate information thereon in the reports they submit to the Committee;

22. *Takes note with interest* of the report of the Secretary-General on access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria (E/CN.4/2005/38);

23. *Requests* the Secretary-General to solicit comments from Governments, United Nations organs, programmes and specialized agencies and international and non-governmental organizations on the steps they have taken to promote and implement, where applicable, the present resolution, as well as to report thereon to the Commission at its sixty-second session;

24. *Decides* to continue its consideration of this matter at its sixty-second session, under the same agenda item.

51st meeting
15 April 2005
[Adopted without a vote. See chap. X.]

2005/24. The right of everyone to the enjoyment of the highest attainable standard of physical and mental health

The Commission on Human Rights,

Reaffirming the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

Reaffirming also that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right, as reflected, inter alia, in article 25, paragraph 1, of the Universal Declaration of Human Rights, article 12 of the International Covenant on Economic, Social and Cultural Rights and article 24 of the Convention on the Rights of the Child, as well as, with respect to non-discrimination, in article 5 (*e*) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination and in article 12, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, and that such a right derives from the inherent dignity of the human person, *Recalling* that, according to the Constitution of the World Health Organization, health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity,

Considering that, according to the International Classification of Functioning, Disability and Health of the World Health Organization, "disability" refers to a range of impairments, activity limitations and participation restrictions, whether permanent or transitory,

Recalling the establishment of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities by General Assembly resolution 56/168 of 19 December 2001,

Welcoming the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to the Commission at its sixty-first session (E/CN.4/2005/51 and Add.1-4),

Recalling the relevant provisions of declarations and programmes of action adopted by the major United Nations conferences, summits and special sessions and their follow-up meetings,

Recalling also all its previous resolutions concerning the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Recalling further general comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the International Covenant on Economic, Social and Cultural Rights), adopted by the Committee on Economic, Social and Cultural Rights at its twenty-second session,

Recalling general comment No. 15 (2002) on the right to water (arts. 11 and 12 of the Covenant), adopted by the Committee at its twenty-ninth session,

Recalling also general comment No. 3 (2003) on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child at its thirty-second session,

Recalling further general recommendation No. 24 (1999) on women and health (article 12 of the Convention on the Elimination of All Forms of Discrimination against Women), adopted by the Committee on the Elimination of Discrimination against Women at its twentieth session,

Recalling also that the International Labour Organization Convention concerning Occupational Safety and Health and the Working Environment, 1981 (No. 155) emphasizes the importance of promoting coherent national policy in the matter of occupational safety and health of workers with the aim of preventing accidents and injury to health occurring in the course of work,

Taking note of resolution EB115.R11 adopted on 24 January 2005 by the Executive Board of the World Health Organization at its one hundred and fifteenth session entitled " Health action in relation to crises and disasters, with particular emphasis on the South Asian earthquakes and tsunami of 26 December 2004", *Recalling* resolution 47/1 of 14 March 2003 on women, the girl child and HIV/AIDS, adopted by the Commission on the Status of Women,

Stressing that gender equality and the empowerment of women and girls are fundamental elements in the reduction of their vulnerability to HIV/AIDS and in the reversal of the pandemic, and noting the importance of increasing investments in, and accelerating research on, the development of effective HIV prevention methods, including female-controlled methods and microbicides,

Acknowledging that persons with disabilities related to mental disorders are vulnerable members of society since they face barriers to their full inclusion and participation in society, and stressing that such barriers need to be addressed in accordance with human rights principles,

Recognizing a need for States, in cooperation with international organizations and civil society, including non-governmental organizations and the private sector, to create favourable conditions at the national, regional and international levels to ensure the full and effective realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Noting the need for States to progressively realize the right to the enjoyment of the highest attainable standard of physical and mental health and noting the important contribution that international assistance and cooperation can make in this regard,

Mindful that States should take into account the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in their relevant national and international policy-making processes,

Recognizing the indispensable role that health professionals play in the promotion and protection of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Welcoming the initiatives of the Secretary-General and relevant United Nations bodies and programmes, such as the World Health Organization and the Joint United Nations Programme on HIV/AIDS (UNAIDS), as well as public-private partnership initiatives, such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, which contribute to improvements in addressing health issues worldwide, including in developing countries, while noting that further progress should be achieved in this regard, including in the mobilization of resources,

Concerned about the interrelationships between poverty and the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in particular that ill-health can be both a cause and a consequence of poverty,

Recalling the development goals of the United Nations Millennium Declaration, in particular the four health-related development goals,

Considering that sexual and reproductive health are integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *Recalling* the Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and Public Health adopted at the Fourth Ministerial Conference of the World Trade Organization, held in Doha in November 2001, and the decision of the General Council of the World Trade Organization of 30 August 2003 on the implementation of paragraph 6 of the Declaration,

Stressing the importance of monitoring and analysing the pharmaceutical and public health implications of relevant international agreements, including trade agreements, so that States can effectively assess and subsequently develop pharmaceutical and health policies and regulatory measures that address their concerns and priorities, and are able to maximize the positive and mitigate the negative impact of those agreements, while respecting all international obligations applicable to them,

1. *Urges* States to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources, with a view to achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

2. *Calls upon* the international community to continue to assist the developing countries in promoting the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including through financial and technical support as well as training of personnel, while recognizing that the primary responsibility for promoting and protecting all human rights rests with States;

3. *Also calls upon* the international community to enhance relief assistance to populations affected by devastation caused by natural disasters as well as by man-made events in order to ensure their physical and mental health recovery;

4. *Calls upon* States to guarantee that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health will be exercised without discrimination of any kind;

5. *Also calls upon* States to pay attention, as necessary, to the physical and mental health of vulnerable groups, including, when appropriate, by adopting positive measures;

6. *Encourages* States to recognize the particular needs of persons with disabilities related to mental disorders, as well as their families, including by reflecting their needs in national health and social policies, such as national poverty reduction strategies;

7. *Calls upon* States to introduce, as far as possible, community-based care and support for persons with disabilities related to mental disorders, in order to ensure their access to medical and social services that promote their independence and autonomy and support their social integration;

8. *Urges* States to ensure the participation of persons with disabilities related to mental disorders, their families and representatives in the design, implementation and monitoring of laws, policies and programmes relating to mental health-care and support services;

9. *Recommends* that States keep under review legislation, procedural safeguards and practices related to the treatment of persons with disabilities related to mental disorders, taking into account the principle of informed consent;

10. *Affirms* the importance of ensuring the accountability of national health authorities and institutions, and the effectiveness and transparency of the treatment procedures adopted in the case of mental health;

11. *Emphasizes* the need to ensure that people with disabilities related to mental disorders are guaranteed equal protection of their sexual and reproductive health, including protection from forced sterilization and sexual violence;

12. *Invites* States to become parties to the World Health Organization Framework Convention on Tobacco Control;

13. *Reaffirms* that the achievement of the highest attainable standard of physical and mental health is a most important worldwide social goal, the realization of which requires action by many other social and economic sectors in addition to the health sector;

14. *Calls upon* States to place a gender perspective at the centre of all policies and programmes affecting women's health;

15. *Also calls upon* States to protect and promote sexual and reproductive health as integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

16. *Considers* it to be of the utmost importance to enhance all States' efforts for the effective prevention of violence that causes physical and mental injury, particularly with a view to reducing its possible negative impact on the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

17. *Affirms* that access to a sufficient amount of safe, clean water for personal and domestic use and adequate nutrition is fundamental to the realization of the right of everyone to the enjoyment of the highest attainable standard of health;

18. *Also affirms* that good governance, sound economic policies and solid democratic institutions responsive to the needs of the people are also key to the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

19. *Decides* to extend, for a period of three years, the mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, as reflected in article 25, paragraph 1, of the Universal Declaration of Human Rights, article 12 of the International Covenant on Economic, Social and Cultural Rights, article 24 of the Convention on the Rights of the Child and article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, as well as on the right to non-discrimination as reflected in article 5 (*e*) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination;

20. *Requests* the Special Rapporteur:

(*a*) To gather, request, receive and exchange information from all relevant sources, including Governments, intergovernmental organizations and non-governmental organizations, on the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

(*b*) To develop a regular dialogue and discuss possible areas of cooperation with all relevant actors, including Governments, relevant United Nations bodies, specialized agencies and programmes, in particular the World Health Organization and UNAIDS, as well as non-governmental organizations and international financial institutions;

(*c*) To report on the status, throughout the world, of the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in accordance with the provisions of the instruments listed in paragraph 19 above, and on developments relating to this right, including on laws, policies and good practices most beneficial to its enjoyment and obstacles encountered domestically and internationally to its implementation;

(*d*) To make recommendations on appropriate measures to promote and protect the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, with a view to supporting States' efforts to enhance public health;

21. *Requests* the Special Rapporteur to avoid in his work any duplication or overlapping with the work, competence and mandate of other international bodies active in health issues;

22. *Invites* the Special Rapporteur to apply a gender perspective in his work and to pay special attention to the needs of children in the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

23. *Also invites* the Special Rapporteur to take into account in his work the relevant provisions of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1), as well as of the declarations and programmes of action adopted by the major United Nations conferences and summits and their follow-up meetings, and to bear in mind general comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights and general recommendation No. 24 (1999) of the Committee on the Elimination of Discrimination against Women, as well as any other general comment that treaty bodies adopt on related provisions of relevant instruments;

24. *Further invites* the Special Rapporteur, within his existing mandate, to continue to explore how efforts to realize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health can reinforce poverty reduction strategies;

25. *Invites* the Special Rapporteur, within his existing mandate, to continue his analysis of the human rights dimensions of the issues of neglected diseases and diseases particularly affecting developing countries, and also the national and international dimensions of those issues;

26. *Requests* the United Nations High Commissioner for Human Rights to provide all the necessary resources for the effective fulfilment of the Special Rapporteur's mandate from within existing resources;

27. *Calls upon* Governments to cooperate fully with the Special Rapporteur in the implementation of his mandate, to provide all information requested and to respond promptly to his communications;

28. *Requests* the Special Rapporteur to submit annually a report to the Commission and an interim report to the General Assembly on the activities performed under his mandate;

29. *Decides* to continue consideration of this matter at its sixty-second session under the same agenda item;

30. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 7.]

51st meeting
15 April 2005
[Adopted by a recorded vote of 52 votes to 1.
See chap. X.]

2005/25. Women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing

The Commission on Human Rights,

Guided by the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination,

Reaffirming the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women (A/CONF.177/20/Rev.1, chap. I), and the outcome document annexed to resolution S-23/3 adopted by the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century",

Recalling the United Nations Millennium Declaration and the declarations and programmes of action of the United Nations world conferences and summits - the Vienna Declaration and Programme of Action, adopted on 25 June 1993 by the World Conference on Human Rights (A/CONF.157/23), the Programme of Action adopted on 13 September 1994 in Cairo by the International Conference on Population and Development (A/CONF.171/13/Rev.1), the Copenhagen Declaration on Social Development, adopted on 12 March 1995 at the conclusion of the World Summit for Social Development (A/CONF.166/9), the Istanbul Declaration on Human Settlements and Habitat Agenda, adopted on 14 June 1996 at the conclusion of the second United Nations Conference on Human Settlements (Habitat II)

(A/CONF.165/14), the Durban Declaration and Programme of Action adopted on 8 September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1), and the Johannesburg Declaration on Sustainable Development and Plan of Action of the World Summit for Sustainable Development adopted on 4 September 2002 by the World Summit (A/CONF.199/20 and Corr.1) - as well as the follow-up processes to these conferences and summits,

Reaffirming the Declaration adopted by the Commission on the Status of Women at its forty-ninth session as a follow-up to the Fourth World Conference on Women and to the twenty-third special session of the General Assembly, which emphasizes that the full and effective implementation of the Beijing Declaration and Platform for Action is essential to achieving the internationally agreed development goals, including those contained in the Millennium Declaration, and stresses the need to ensure the integration of a gender perspective in the High-level Plenary Meeting of the General Assembly on the review of the Millennium Declaration,

Recalling its resolutions 2004/21 of 16 April 2004 on adequate housing as a component on the right to an adequate standard of living and 2003/22 of 22 April 2003 on women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing,

Reaffirming that all human rights are universal, indivisible, interdependent and interrelated and that women's equal ownership, access to and control over land and the equal right to own property and to adequate housing contribute to the full realization of human rights,

Recognizing that women, particularly women living in extreme poverty and victims of domestic violence, continue to suffer multiple or aggravated forms of discrimination, inter alia on the grounds of property, as well as from discriminatory treatment in all areas decisive to the attainment of adequate housing,

Reaffirming the human right to be free from all forms of discrimination and the equal right of women and men to the enjoyment of all civil, cultural, economic, political and social rights,

Mindful of the fact that elimination of discrimination against women and the achievement of substantive equality of women and girls require consideration of women's specific socio-economic context,

Welcoming the findings of the former Special Rapporteur on violence against women, its causes and consequences (see E/CN.4/2000/68/Add.5), in particular, the recognition that women's poverty, together with a lack of alternative housing options, make it difficult for women to leave violent family situations, reaffirming that forced relocation and forced eviction from home and land have a disproportionately severe impact on women, including when these are committed by spouses or in-laws, and encouraging the new Special Rapporteur to continue to take these findings into consideration in her future work,

Recognizing that poverty is a major obstacle to women's full realization of housing, land and property rights, *Convinced* that the lack of adequate housing can make women more vulnerable to various forms of violence, including domestic violence, and in particular that the lack of housing alternatives may limit many women's ability to leave violent situations,

Stressing that the impact of gender-based discrimination and violence against women on women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing is acute, particularly during complex emergency situations, reconstruction and rehabilitation,

Recognizing that the Secretary-General has linked the growing prevalence of HIV/AIDS in women with laws that inhibit the full enjoyment of women's rights to land ownership and inheritance, and that he has called for positive change and attention to women's empowerment and protection of women's housing and land rights to make women less vulnerable to HIV/AIDS,

Reaffirming the Declaration of Commitment on HIV/AIDS, adopted by General Assembly resolution S-26/2 of 26 June 2001 at its twenty-sixth special session, which calls for all Governments to strengthen or enforce legislation, regulations and other measures to eliminate all forms of discrimination and to ensure the full enjoyment of all human rights and fundamental freedoms by people living with HIV/AIDS and members of vulnerable groups, in particular, to ensure their access to inheritance and legal protections,

Recognizing that laws, policies, customs, traditions and practices that act to restrict women's equal access to credit and loans also prevent women from owning and inheriting land, property and housing and exclude women from participating fully in development processes, are discriminatory and contribute to increasing the poverty of women and girls,

Convinced that international, regional and local trade, finance and investment policies should be designed in such a way that they promote gender equality in terms of ownership of, access to and control over land and the rights to own property and to adequate housing and other productive resources and do not undermine women's capacity to acquire and retain these resources,

Convinced also of the need to address specifically the impact of natural disasters on women's and children's adequate housing needs and to ensure that a human rights approach, including a gender perspective, is taken when addressing this impact,

1. *Takes note with interest* of the findings of the progress report on the study on women and adequate housing (E/CN.4/2005/43) submitted by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in accordance with Commission resolution 2003/22;

2. *Reaffirms* women's right to an adequate standard of living, including adequate housing, as enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, and urges Governments to comply fully with their international and regional obligations and commitments concerning land tenure and the equality of women to own, have access to and to control property, land and housing, irrespective of their marital status, and to an adequate standard of living, including adequate housing;

3. *Affirms* that discrimination in law and practice against women with respect to having access to, acquiring and securing land, property and housing, as well as financing for land, property and housing, constitutes a violation of women's human right to protection against discrimination and may affect the realization of other human rights;

4. *Reaffirms* Commission on the Status of Women resolution 42/1, which, inter alia, urges States to design and revise laws to ensure that women are accorded full and equal rights to own land and other property, and the right to adequate housing, including through the right to inheritance, and to undertake administrative reforms and other necessary measures to give women the same right as men to credit, capital, appropriate technologies, access to markets and information;

5. *Encourages* Governments to support the transformation of customs and traditions that discriminate against women and deny women security of tenure and equal ownership of, access to and control over land and equal rights to own property and to adequate housing, to ensure the right of women to equal treatment in land and agrarian reform as well as in land resettlement schemes and in ownership of property and in adequate housing, and to take other measures to increase access to land and housing for women living in poverty, particularly female heads of household, including through access to housing subsidies;

6. *Calls upon* States to urgently address discrimination, inequality and historical injustices experienced by women in vulnerable situations, inter alia, indigenous women, in particular to secure their equal ownership, access to and control over land, and equal rights to own property and to adequate housing;

7. *Reaffirms* the obligation of States to take all appropriate measures, including special measures, inter alia those derived from their obligations under the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination, to eliminate discrimination against women by any person, organization or enterprise, and recommends that Governments encourage financial and lending institutions to ensure that their policies and practices do not discriminate against women;

8. *Urges* Governments to address the issue of forced relocation and forced evictions from home and land and to eliminate its disproportionate impact on women;

9. *Recommends* that international financial institutions, regional, national and local housing financing institutions and other credit facilities facilitate the participation of women and take into account their views in order to remove discriminatory policies and practices, giving special consideration to single women and households headed by women, and that these institutions evaluate and measure progress to this end;

10. *Invites* Governments to take further appropriate measures to address the increasing rate of homelessness or inadequate housing for women, including its underlying factors, such as gender inequality, HIV/AIDS, poverty and violence;

11. *Encourages* Governments, specialized agencies, funds, programmes and other organizations of the United Nations system, as well as other international organizations and non-governmental organizations, to provide judges, lawyers, political and other public officials, community leaders and other concerned persons, as appropriate, with information and human rights education concerning women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing;

12. *Invites* the Secretary-General to encourage all organizations and bodies of the United Nations system, individually and collectively, in particular the United Nations Development Programme, the United Nations Human Settlements Programme (UN-Habitat), the United Nations Development Fund for Women and the Joint United Nations Programme on HIV/AIDS (UNAIDS), to undertake further initiatives that promote women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing, and allocate further resources for studying, documenting and addressing the impact of complex emergency situations and the HIV/AIDS pandemic, particularly with respect to women's equal rights to own land, property and adequate housing;

13. *Invites* the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees and other relevant international organizations, within their respective mandates, to address discrimination against women with respect to land, property and adequate housing in their cooperation programmes and field activities;

14. *Encourages* all the human rights treaty bodies, in particular the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women, special procedures and other human rights mechanisms of the Commission and the Sub-Commission on the Promotion and Protection of Human Rights as well as all United Nations bodies regularly and systematically to take a gender perspective into account in the implementation of their mandates and to integrate the content of the present resolution into their work, as appropriate;

15. *Encourages* the United Nations Housing Rights Programme to take into account the content of the present resolution and to continue its regional consultations, with the participation of representatives of Governments, United Nations agencies, intergovernmental organizations and non-governmental organizations;

16. *Requests* the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination, within his mandate, to submit a final report to the Commission at its sixty-second session containing the study on women and adequate housing;

17. *Also requests* the Special Rapporteur to specifically consider the impact of natural disasters on women's adequate housing;

18. *Further requests* the Special Rapporteur to cooperate with the Special Rapporteur on violence against women, its causes and consequences, in the elaboration of model provisions to protect women's rights in housing and domestic violence legislation, to ensure women's full and equal access to national legal aid schemes to protect their housing, land and property rights in cases of divorce, inheritance and domestic violence;

19. *Invites* all States that have not done so to respond to the questionnaire prepared by the Special Rapporteur on adequate housing;

20. *Decides* to continue its consideration of this question at its sixty-third session under the agenda item entitled "Economic, social and cultural rights".

51st meeting
15 April 2005
[Adopted without a vote. See chap. X.]

2005/26. Human rights and forensic science

The Commission on Human Rights,

Recalling all its previous resolutions on human rights and forensic science, the latest of which is resolution 2003/33 of 23 April 2003,

Recognizing that forensic science is an important tool in detecting evidence of torture and other cruel, inhuman or degrading treatment or punishment and extrajudicial, summary or arbitrary executions, and recalling in this context the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989, the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) annexed to Commission resolution 2000/43 of 20 April 2000 and General Assembly resolution 55/89 of 4 December 2000, as well as the updated Set of principles for the promotion and protection of human rights through action to combat impunity (E/CN.4/2005/102/Add.1), the Cooperation Service Agreement (E/CN.4/1998/32, annex II) regulating the use of forensic experts provided either by a Member State or by a non-governmental organization, and the Guidelines for the Conduct of United Nations Inquiries into Allegations of Massacres (DPI/1710),

Bearing in mind the operational best practices regarding the management of human remains and information on the dead contained in the report of the International Committee of the Red Cross entitled *The Missing and their Families: Action to resolve the problem of people unaccounted for as a result of armed conflict or internal violence and to assist their families* (03/IC/10),

Recognizing that forensic investigations can play an important role in combating impunity by providing the evidentiary basis on which prosecutions can successfully be brought against persons responsible for grave violations of human rights and international humanitarian law,

Noting that the practice of forensic science includes examinations and identification procedures of both dead and living persons, and underlines the importance of dignified handling of human remains, including their proper management and disposal, as well as of respect for the needs of families, *Noting also* the need of Governments, intergovernmental organizations and non-governmental organizations for forensic scientific expertise in investigating deaths and clarifying disappearances,

Aware that several special rapporteurs have used or referred to the need for the assistance of experts in various forensic disciplines in the context of the implementation of their mandates,

1. *Welcomes* the increased use of forensic investigations in situations where grave violations of human rights and international humanitarian law have occurred, and encourages further coordination concerning, inter alia, the planning and realization of such investigations between Governments, intergovernmental organizations and non-governmental organizations;

2. *Urges* States to ensure the safety and security of forensic and related experts, in particular in situations where their safety and security are at risk;

3. *Welcomes* the consolidated database of forensic experts at the Office of the United Nations High Commissioner for Human Rights and requests the High Commissioner for Human Rights to keep the database continuously updated in consultation with Governments, relevant United Nations bodies, non-governmental organizations and professional organizations of forensic and related experts;

4. *Recommends* that the Office of the High Commissioner encourage forensic experts to coordinate further and promote the consolidation of relevant guidelines, with a view to harmonizing the procedures in forensic investigation and repatriation;

5. *Also recommends* that the Office of the High Commissioner encourage, as appropriate, the dissemination and use of the principles, best practices and manuals referred to in the present resolution and the promotion of forensic capacity-building, including training where necessary, particularly in countries without sufficient expertise in forensic science and related fields, for example through the training of local teams;

6. *Recommends* that the High Commissioner, with a view to promoting quality and consistency of forensic practice, facilitate the development and implementation of a common framework of operations based on existing standards and principles;

7. *Encourages* Governments to establish thorough, prompt and impartial investigation and documentation procedures, such as those reflected in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and in the Istanbul Principles;

8. *Urges* Governments to make every effort to ensure that personal information, including medical and genetic data, is not used in a way that may infringe human rights, such as the right to privacy;

9. *Requests* the Secretary-General to provide appropriate resources, from within existing overall United Nations resources, to fund the activities of the Office of the High Commissioner in implementing the present resolution, including a revision of the *Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*;

10. *Requests* the Office of the High Commissioner to provide for the Commission at its sixty-third session an updated version of the report requested in resolution 2003/33;

11. *Decides* to consider this question at its sixty-third session under the same agenda item.

56th meeting
19 April 2005
[Adopted without a vote. See chap. XI.]

2005/27. Enforced or involuntary disappearances

The Commission on Human Rights,

Recalling its resolution 20 (XXXVI) of 29 February 1980, in which it decided to establish a working group,

Recalling also General Assembly resolution 47/133 of 18 December 1992, by which the Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance as a body of principles for all States,

Deeply concerned in particular by the increase in enforced or involuntary disappearances in various regions of the world, including arrest, detention and abduction, when these are part of or amount to enforced disappearances, and by the growing number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared,

Acknowledging the fact that acts of enforced disappearance are crimes against humanity, as defined in the Rome Statute of the International Criminal Court (A/CONF.183/9),

1. *Takes note* of the report submitted by the Working Group on Enforced or Involuntary Disappearances (E/CN.4/2005/65 and Add.1);

2. *Stresses* the importance of the work of the Working Group, and encourages it to pursue the execution of its mandate:

(*a*) To continue to promote communication between families of disappeared persons and the Governments concerned, particularly when ordinary channels have failed, with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and to ascertain whether such information falls under its mandate and contains the required elements;

(*b*) To continue to observe, in its humanitarian task, United Nations standards and practices regarding the handling of communications and the consideration of government replies;

(*c*) To continue to consider the question of impunity in the light of the relevant provisions of the Declaration on the Protection of All Persons from Enforced Disappearance and of the final reports submitted by the Special Rapporteur appointed by the Sub-Commission on the Promotion and Protection of Human Rights;

(*d*) To continue to pay particular attention to cases of children subjected to enforced disappearance and children of disappeared persons and to cooperate closely with the Governments concerned in searching for and identifying these children;

(*e*) To pay particular attention to cases transmitted to it that are most urgent from a humanitarian perspective and that refer to ill-treatment, serious threatening or intimidation of witnesses of enforced or involuntary disappearances or relatives of disappeared persons;

(*f*) To pay particular attention to cases of disappearance of persons working for the promotion and protection of human rights and fundamental freedoms, wherever they occur, and to make appropriate recommendations for preventing such disappearances and improving the protection of such persons;

(*g*) To continue to apply a gender perspective in its reporting process, including in information collection and the formulation of recommendations;

(*h*) To provide appropriate assistance in the implementation by States of the Declaration and of the existing international rules;

(*i*) To continue its deliberations on its working methods and to include these aspects in its report to the Commission at its sixty-second session;

3. *Deplores* the fact that some Governments have not provided for a long period of time substantive replies concerning claims of enforced disappearances in their countries and have not given due consideration to relevant recommendations concerning this subject made in the reports of the Working Group;

4. *Urges* States:

(*a*) To promote and give full effect to the Declaration on the Protection of All Persons against Enforced Disappearance;

(*b*) To cooperate with the Working Group and help it to carry out its mandate effectively and, in that framework, give serious consideration to requests for visits to their countries;

(*c*) To prevent the occurrence of enforced disappearances, including by guaranteeing that any person deprived of liberty is held solely in officially recognized and supervised places of detention, guaranteeing access to all places of detention by authorities and institutions whose competence in this regard has been recognized by the concerned State, maintaining official, accessible, up-to-date registers and/or records of detainees and ensuring that detainees are brought before a judicial authority promptly after detention;

(*d*) To work to eradicate the culture of impunity for the perpetrators of enforced disappearances and to elucidate cases of enforced disappearances as crucial steps in effective prevention;

(*e*) To prevent and investigate with special attention enforced disappearances of persons belonging to vulnerable groups, especially children, and to bring the perpetrators of these enforced disappearances to justice;

(*f*) To take steps to provide adequate protection to witnesses of enforced or involuntary disappearances, human rights defenders acting against enforced disappearances, and the lawyers and families of disappeared persons against any intimidation or ill-treatment to which they might be subjected;

5. *Urges* the Governments concerned:

(*a*) To intensify their cooperation with the Working Group on any action taken pursuant to recommendations addressed to them by the Working Group;

(*b*) To continue their efforts to elucidate the fate of disappeared persons and to ensure that competent authorities in charge of investigation and prosecution are provided with adequate means and resources to resolve cases and bring perpetrators to justice;

(*c*) To make provision in their legal systems for victims of enforced or involuntary disappearances or their families to seek fair, prompt and adequate reparation and in addition, where appropriate, to consider symbolic measures recognizing the suffering of victims and restoring their dignity and reputation;

(*d*) To address the specific needs of the families of disappeared persons;

6. *Reminds* States:

(*a*) That, as proclaimed in article 2 of the Declaration on the Protection of All Persons from Enforced Disappearance, no State shall practise, permit or tolerate enforced disappearances;

(*b*) That all acts of enforced or involuntary disappearance are crimes punishable by appropriate penalties which should take due account of their extreme seriousness under penal law;

(*c*) That they should ensure that their competent authorities proceed immediately to conduct impartial inquiries in all circumstances where there is reason to believe that an enforced disappearance has occurred in territory under their jurisdiction;

(*d*) That, if such belief is borne out, all the perpetrators of enforced or involuntary disappearances must be brought to justice;

(*e*) That impunity is simultaneously one of the underlying causes of enforced disappearance and one of the major obstacles to the elucidation of cases thereof;

(*f*) That, as proclaimed in article 11 of the Declaration, all persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured;

7. *Expresses*:

(*a*) Its thanks to the many Governments that have cooperated with the Working Group and replied to its requests for information and to the Governments that have accepted visits of the Working Group to their countries, asks them to give all necessary attention to the Working Group's recommendations and invites them to inform the Working Group of any action they take on those recommendations;

(*b*) Its appreciation to the Governments that are investigating, are cooperating at the international and the bilateral levels, have developed or are developing appropriate mechanisms to investigate any claims of enforced disappearance that are brought to their attention, and encourages all the Governments concerned to expand their efforts in this area;

8. *Invites* States to take legislative, administrative, legal and other steps, including when a state of emergency has been declared, to take action at the national and regional levels and in cooperation with the United Nations, if appropriate through technical assistance, and to provide the Working Group with concrete information on the measures taken and the obstacles encountered in preventing enforced or involuntary disappearances and in giving effect to the principles set forth in the Declaration;

9. *Takes note* of the assistance provided to the Working Group by non-governmental organizations and their activities in support of the implementation of the Declaration and invites those organizations to continue their cooperation;

10. *Acknowledges* the improvement in the staffing granted to the Working Group and requests the Secretary-General:

(*a*) To ensure that the Working Group receives all the assistance and resources it requires to perform its function, including supporting the principles of the Declaration, carrying out and following up on missions and holding sessions in countries that are prepared to receive it;

(*b*) To provide the resources needed to update the database on cases of enforced disappearance;

(*c*) To keep the Working Group and the Commission regularly informed of the steps taken for the wide dissemination and promotion of the Declaration;

11. *Requests* the Working Group to report on its activities to the Commission at its sixty-second session;

12. *Takes note* of the report of the Intersessional open-ended working group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance (E/CN.4/2005/66) and welcomes the additional substantial progress made during the third and fourth sessions of the intersessional working group and, in that context, welcomes the participation of non-governmental organizations;

13. *Requests* the intersessional Working Group to meet for a period of 10 working days in one formal session before the end of 2005 with a view to the completion of its work, and to report to the Commission at its sixty-second session;

14. *Requests* the Chairperson-Rapporteur of the intersessional Working Group to undertake informal consultations with all interested parties in order to prepare the next session of the intersessional working group;

15. *Requests* the United Nations High Commissioner for Human Rights to invite the former independent expert to examine the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance, the former Chairman-Rapporteur of the sessional working group on the administration of justice of the Sub-Commission on the Promotion and Protection of Human Rights, who submitted to the sessional working group in 1998 a draft international convention on the protection of all persons from enforced disappearance (E/CN.4/Sub.2/1998/19, annex), and also a representative of the Working Group on Enforced or Involuntary Disappearances to participate in the activities of the intersessional working group;

16. *Decides* to consider this matter at its sixty-second session under the same agenda item;

17. *Also decides* to recommend to the Economic and Social Council the following draft decision for adoption:

[For the text, see chap. I, sect. B, draft decision 8.]

56th meeting
19 April 2005
[Adopted without a vote. See chap. XI.]

2005/28. Arbitrary detention

The Commission on Human Rights,

Reaffirming articles 3, 5, 9, 10 and 29, as well as other relevant provisions of the Universal Declaration of Human Rights,

Recalling articles 9 to 11 and 14 to 22 of the International Covenant on Civil and Political Rights,

Bearing in mind that, in accordance with its resolution 1991/42 of 5 March 1991, the task of the Working Group on Arbitrary Detention is to investigate cases of detention imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned, *Recalling* that the World Conference on Human Rights reaffirmed the importance of ensuring the universality, objectivity and non-selectivity of the consideration of human rights issues,

Recalling also the adoption by the Working Group of several deliberations, including its deliberation No. 7 on issues related to psychiatric detention (E/CN.4/2005/6, chap. II),

Reaffirming its resolution 2004/39 of 19 April 2004,

1. *Takes note* of:

(*a*) The report of the Working Group (E/CN.4/2005/6 and Add.1-4), including the recommendations contained therein;

(*b*) The work of the Working Group and underlines the positive initiatives it has taken to strengthen cooperation and dialogue with all those concerned by the cases submitted to it, and in particular with States that provide information which should be given due consideration;

(*c*) The importance that the Working Group attaches to coordination with other mechanisms of the Commission, with other competent United Nations bodies and with treaty bodies, as well as to the strengthening of the role of the Office of the United Nations High Commissioner for Human Rights in such coordination and encourages the Working Group to take all necessary measures to avoid duplication with those mechanisms, in particular regarding the treatment of the communications it receives and field visits;

2. *Requests* the States concerned to take account of the Working Group's views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty and to inform the Working Group of the steps they have taken;

3. *Encourages* all States:

(*a*) To give due consideration to the recommendations of the Working Group;

(*b*) To take appropriate measures in order to ensure that their legislation, regulations and practices remain in conformity with the relevant international standards and the applicable international legal instruments;

(*c*) To respect and promote the right of anyone who is deprived of his/her liberty by arrest or detention to be entitled to bring proceedings before a court, in order that the court may decide without delay on the lawfulness of his/her detention and order his/her release if the detention is not lawful, in accordance with their international obligations;

(*d*) To ensure that the right referred to in subparagraph (*c*) above is equally respected in cases of administrative detention, including administrative detentions in relation to public security legislation;

(*e*) To ensure that the conditions of pre-trial detention do not undermine the fairness of the trial;

4. *Encourages* all States concerned:

(*a*) Not to extend states of emergency beyond what is strictly required by the situation, in accordance with the provisions of article 4 of the International Covenant on Civil and Political Rights, or to limit their effect;

(*b*) To pay special attention, during states of emergency, to the exercise of those rights that ensure protection against arbitrary detention;

5. *Encourages* all States to cooperate with the Working Group, and to give serious consideration to its requests for visits, so that it may carry out its mandate even more effectively;

6. *Notes with concern* that a growing proportion of urgent appeals of the Working Group has been left unanswered and urges the States concerned to give the necessary attention to the urgent appeals addressed to them by the Working Group on a strictly humanitarian basis and without prejudging its possible final conclusions;

7. *Expresses its profound thanks* to the States that have extended their cooperation to the Working Group and responded to its requests for information, and invites all States concerned to demonstrate the same spirit of cooperation;

8. *Takes note with satisfaction* of the fact that the Working Group has been informed of the release of some of the individuals whose situation has been brought to its attention, while deploring the many cases that have not yet been resolved;

9. *Requests* the Secretary-General:

(*a*) To extend his assistance to States expressing the wish to receive it, and to the special rapporteurs and working groups, with a view to ensuring the promotion and observance of the guarantees relating to the prevention of arbitrary detention that are laid down in the relevant international instruments;

(*b*) To ensure that the Working Group receives all necessary assistance, particularly with regard to the staffing and resources needed to continue to discharge its mandate, especially in respect of field missions;

10. *Requests* the Working Group to submit to the Commission, at its sixty-second session, a report on its activities and on the implementation of the present resolution and to include any suggestions and recommendations which would enable it to carry out its task in the best possible way, and to continue its consultations to that end in the framework of its terms of reference;

11. *Decides* to continue its consideration of this question at its sixty-second session under the relevant agenda item.

56th meeting
19 April 2005
[Adopted without a vote. See chap. XI.]

2005/29. Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy

The Commission on Human Rights,

Recalling its previous resolutions on this issue,

Recalling also General Assembly resolution 55/96 of 4 December 2000 and recalling its own resolution 2000/47 of 25 April 2000 on promoting and consolidating democracy,

Reaffirming its commitment to the purposes and principles enshrined in the Charter of the United Nations,

Reaffirming also the commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law,

Stressing that all peoples have the right to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Recognizing that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing,

Recalling that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat all human rights globally in a fair and equal manner, on the same footing and with the same emphasis,

Reaffirming the commitment made by Member States to strive for the full protection and promotion in all our States of civil, political, economic, social and cultural rights for all,

Considering the major changes taking place on the international scene and the aspirations of all peoples for a democratic, participatory and fair international order based on the principles enshrined in the Charter of the United Nations, including promoting and encouraging respect for all human rights and fundamental freedoms for all and respect for the principle of equal rights and self-determination of peoples, peace, democracy, justice, equality, rule of law, pluralism, development, better standards of living and solidarity,

Recognizing that granting all people formal political equality does not create an equal capacity to participate in political processes, or an equal capacity to influence decision-making processes, taking into consideration the existence of threats and obstacles that impede effective popular participation,

Welcoming the commitment of all Member States, expressed in the United Nations Millennium Declaration, to work collectively for more inclusive political processes allowing genuine participation by all citizens in all countries, *Welcoming also* the pledge of the international community at the World Conference on Human Rights, held at Vienna in June 1993, to support the strengthening and promotion of democracy, development and respect for human rights and fundamental freedoms throughout the world,

Recalling the commitment of States, expressed in the Declaration of Principles adopted by the World Summit on the Information Society in December 2003, to ensure that everyone can benefit from the opportunities offered by information and communication technologies, so that all citizens in every country can participate actively in, and benefit fully from, the information society,

Recognizing that the equal participation of all individuals and peoples in the formation of just, equitable, democratic and inclusive societies can contribute to a world free from racism, racial discrimination, xenophobia and related intolerance,

Emphasizing the importance of the equitable participation of all, without any discrimination, in domestic as well as global decision-making,

Considering that in the current context of globalization, whereby decisions affecting people's lives are often taken outside the national context, the application of the principles of democracy to the international and regional levels has taken on added importance,

Recognizing that development can only be sustainable on a long-term basis if development policies are responsive to people's needs and ensure people's participation both in their design and implementation, while stressing the fact that meeting the basic human needs essential for survival is a sine qua non condition for an effective democracy,

Emphasizing that poverty, inequalities and discrimination constitute major threats to democracy and inhibit the full and effective enjoyment of human rights and the participation of all citizens in the democratic processes in every society,

Emphasizing also that the full participation of everyone in democratic societies fosters and enhances the struggle against poverty, inequities and discrimination,

Recognizing that the electoral regime is a basic and fundamental element of democracy, but that democracy involves more than the mere holding of elections, as it also depends on an effective response to people's well-being,

Reaffirming the need to create an environment - at the national and global levels alike - which is conducive to development and to the elimination of poverty,

Recalling that accountable and transparent governance at the national and international levels is critical for the creation of an environment that facilitates the development of democratic, prosperous and peaceful societies,

Reaffirming that democracy goes hand in hand with an effective, honest and transparent government, freely chosen and accountable for its management of public affairs, *Noting* that the conduct of public affairs covers all aspects of public administration and the formulation and implementation of policy at the international, regional, national and local levels,

Recognizing and respecting the rich and diverse nature of the community of the world's democracies, which arise out of all of the world's social, cultural and religious beliefs and traditions,

Bearing in mind that each society and every context has its own indigenous and relevant democratic institutional traditions, and that while no single institution can claim democratic perfection, the combination of domestic democratic structures with universal democratic norms is a formidable tool in strengthening both the roots and the reach of democracy and in advancing a universal understanding of democracy,

Recognizing that while all democracies share common features, differences between democratic societies should be neither feared nor repressed, but cherished as a precious asset of humanity,

Aware of the importance of fostering a diversity of social contributions in strengthening people's participation, equity, social justice and non-discrimination, including the enhancement of non-governmental organizations, people's organizations, voluntary social organizations, trade unions, the private sector and other actors of civil society,

Aware also of the importance of ensuring the implementation of the rights to freedom of opinion and expression as well as to freedom of assembly and association, in accordance with articles 19, 20, 21 and 22 of the International Covenant on Civil and Political Rights,

Recalling the commitment undertaken by all States within the framework of the United Nations and other international organizations to work for the promotion of democracy and the rule of law,

1. *Declares* that popular participation, equity, social justice and non-discrimination are essential foundations of democracy;

2. *Reaffirms* that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives and that in that context the promotion and protection of human rights and fundamental freedoms at the national and international levels should be universal and conducted without conditions attached;

3. *Also reaffirms* that while all democracies share common features, there is no one model of democracy; therefore we must not seek to export any particular model of democracy;

4. *Affirms* that the consolidation of democracy requires the promotion and protection of all human rights for everyone, both civil and political rights and economic, social and cultural rights, including the right to development as a universal and inalienable right and an integral part of fundamental human rights, as established in the Declaration on the Right to Development;

5. *Also affirms* that the right to development is a crucial area of public affairs in every country and requires free, active and meaningful popular participation;

6. *Reaffirms* that democracy, development and respect for human rights are interdependent and mutually reinforcing;

7. *Stresses* that the consolidation of democracy requires that sustained economic growth and sustainable development of countries and communities foster the promotion and consolidation of democracies;

8. *Declares* that full popular participation is only feasible if societies have democratic political and electoral systems which guarantee to all their citizens the possibility both to take part in the government of their country, directly or through freely chosen representatives, and to have equal access to public service, without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

9. *Reaffirms* that the will of the people shall be the basis of the authority of Government and that this shall be expressed in periodic and genuine elections, which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures;

10. *Also reaffirms* that free and fair elections, popular participation and control, collective deliberation and political equality are essential to democracy and must be realized through a framework of accessible, representative and accountable institutions subject to periodic change or renewal;

11. *Recognizes* that improving access of every person to, and education in, the use of information and communication technologies could enhance popular participation in public affairs and the accountability of Governments;

12. *Also recognizes* that inequitable political, economic, cultural and social conditions can breed and foster racism, racial discrimination, xenophobia and related intolerance, which in turn exacerbate inequity;

13. *Reaffirms* that genuine equality of opportunity for all, in all spheres, including that of development, is fundamental to the eradication of racism, racial discrimination, xenophobia and related intolerance;

14. *Urges* all States to foster a democracy that, inspired by the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family, promotes people's welfare, rejecting all forms of discrimination and exclusion, facilitates development with equity and justice, and encourages the most comprehensive and full participation of their citizens in the decision-making process and in the debate over diverse issues affecting society;

15. *Also urges* all States to take measures to eliminate obstacles and threats to democracy and to ensure that barriers to participation, such as illiteracy, poverty and discrimination, are overcome;

16. *Requests* all States and the international community further to endeavour to promote effective measures to eradicate poverty and promote just, equitable and inclusive societies;

17. *Invites* all mechanisms of the Commission and the human rights treaty bodies to continue taking into account, in the discharge of their respective mandates, the question of strengthening popular participation, equity, social justice and non-discrimination as the foundations of democracy;

18. *Decides* to continue its consideration of this issue at its sixty-second session, under the same agenda item.

56th meeting
19 April 2005
[Adopted by a recorded vote of 28 votes to 14,
with 11 abstentions. See chap. XI.]

2005/30. Integrity of the judicial system

The Commission on Human Rights,

Guided by articles 5, 7, 8, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 4, 6, 7, 10, 14, 15 and 26 of the International Covenant on Civil and Political Rights, and bearing in mind the Vienna Declaration and Programme of Action,

Recalling other important documents on the issue of the integrity of the judiciary endorsed by various forums of the United Nations, in particular the Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers, the Guidelines on the Role of Prosecutors, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the Standard Minimum Rules for the Treatment of Prisoners, the Basic Principles for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the safeguards guaranteeing protection of the rights of those facing the death penalty,

Recalling also its previous resolutions on the subject, in particular its most recent, resolution 2004/32 of 19 April 2004,

Taking note of resolution 2004/27 of 12 August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights,

Convinced that the integrity of the judicial system is an essential prerequisite for the protection of human rights and for ensuring that there is no discrimination in the administration of justice, *Stressing* that the integrity of the judiciary should be observed at all times,

1. *Takes note* of the relevant sections of the report of the Special Rapporteur on the independence of judges and lawyers on the subject (E/CN.4/2005/60 and Add.1 and 2, Add.3 and Add.3/Corr.1 and Add.4)), as well as the report submitted by the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights on the issue of the administration of justice through military tribunals (E/CN.4/Sub.2/2004/7);

2. *Reiterates* that, as declared in article 14 of the International Covenant on Civil and Political Rights, every person is entitled, in full equality, to a fair and public hearing by a competent, independent and impartial tribunal duly established by law, in the determination of his/her rights and obligations and of any criminal charge against him/her, and that he/she is entitled to the presumption of innocence until proved guilty according to law;

3. *Also reiterates* that, according to paragraph 5 of the Basic Principles on the Independence of the Judiciary, everyone has the right to be tried by ordinary courts or tribunals using established legal procedures and that tribunals that do not use such duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals;

4. *Underlines* that any court trying a person charged with a criminal offence should be competent, independent and impartial;

5. *Urges* States to guarantee that all persons brought to trial before courts or tribunals under their authority have the right to be tried in their presence, to defend themselves in person or through legal assistance of their own choosing and to have all the guarantees necessary for the defence;

6. *Calls upon* States to ensure that the principles of equality before the courts and before the law are respected within their judicial systems, inter alia by providing to those being tried the possibility to examine, or to have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;

7. *Reaffirms* that every convicted person should have the right to have his/her conviction and sentence reviewed by a tribunal of competent, independent and impartial jurisdiction according to law;

8. *Calls upon* States that have military courts or special criminal tribunals for trying criminal offenders to ensure that such courts are an integral part of the general judicial system and that such courts apply due process procedures that are recognized according to international law as guarantees of a fair trial, including the right to appeal a conviction and a sentence;

9. *Stresses* the importance of developing cooperation between the national judicial systems, inter alia with a view to strengthening the protection of persons deprived of their liberty;

10. *Requests* the Special Rapporteur of the Sub-Commission on the issue of the administration of justice through military tribunals to continue to take account of the present resolution in his ongoing work;

11. *Requests* the Special Rapporteur on the independence of judges and lawyers to take full account of the present resolution in the discharge of his mandate and in his report to the sixty-second session of the Commission.

56th meeting
19 April 2005
[Adopted by a recorded vote of 52 votes to none,
with 1 abstention. See chap. XI.]

2005/31. Hostage-taking

The Commission on Human Rights,

Recalling the Universal Declaration of Human Rights, which guarantees, inter alia, the right to life, liberty and security of person, freedom from torture and other cruel, inhuman or degrading treatment, freedom of movement and protection from arbitrary detention,

Recalling also the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

Taking into account the International Convention against the Taking of Hostages, adopted by the General Assembly in its resolution 34/146 of 17 December 1979, which also recognizes that everyone has the right to life, liberty and security of person and that the taking of hostages is an offence of grave concern to the international community, as well as the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly in its resolution 3166 (XXVIII) of 14 December 1973,

Bearing in mind the relevant Security Council resolutions condemning all cases of terrorism, including those of hostage-taking, in particular, resolution 1440 (2002) of 24 October 2002,

Mindful of the fact that hostage-taking constitutes a war crime under the Rome Statute of the International Criminal Court (A/CONF.183/9) and is also a grave breach of the Geneva Conventions, of 12 August 1949, for the protection of victims of war,

Recalling its previous resolutions on the subject, including its most recent, resolution 2003/40 of 23 April 2003, in which it condemned the taking of any person as a hostage, as well as resolutions adopted by the General Assembly on the same subject,

Concerned that, despite the efforts of the international community, acts of hostage-taking in different forms and manifestations, including those committed by terrorists and armed groups, continue to take place and have even increased in many regions of the world, *Appealing* for the humanitarian action of humanitarian organizations, in particular the International Committee of the Red Cross and its delegates, to be respected, in accordance with the Geneva Conventions, of 12 August 1949, and the Additional Protocols of 1977 thereto,

Recognizing that hostage-taking calls for resolute, firm and concerted efforts on the part of the international community in order, in strict conformity with international human rights standards, to bring such abhorrent practices to an end,

1. *Reaffirms* that hostage-taking, wherever and by whomever committed, is a serious crime aimed at the destruction of human rights and is, under any circumstances, unjustifiable, including when committed under the pretext of achieving the goal of promoting and protecting human rights;

2. *Condemns* all acts of hostage-taking anywhere in the world;

3. *Demands* that all hostages be released immediately and without any preconditions, and expresses its solidarity with the victims of hostage-taking;

4. *Calls upon* States to take all necessary measures, in accordance with relevant provisions of international law, international humanitarian law and international human rights standards, to prevent, combat and punish acts of hostage-taking, including by strengthening international cooperation in this field;

5. *Urges* all thematic special procedures to continue to address, as appropriate, the consequences of hostage-taking in their forthcoming reports to the Commission;

6. *Decides* to remain seized of this matter.

56th meeting
19 April 2005
[Adopted without a vote. See chap. XI.]

2005/32. Democracy and the rule of law

The Commission on Human Rights,

Recalling General Assembly resolutions 55/96 of 4 December 2000, entitled "Promoting and consolidating democracy", 57/221 of 18 December 2002 entitled "Strengthening the rule of law" and 59/201 of 20 December 2004 entitled "Enhancing the role of regional, subregional and other organizations and arrangements in promoting and consolidating democracy" as well as all its own relevant resolutions, in particular resolutions 1999/57 of 27 April 1999, entitled "Promotion of the right to democracy", 2000/47 of 25 April 2000, entitled "Promoting and consolidating democracy", 2001/41 of 23 April 2001, entitled "Continuing dialogue on measures to promote and consolidate democracy", 2002/46 of 23 April 2002, entitled "Further measures to promote and consolidate democracy", 2003/36 of 23 April 2003, entitled "Interdependence between democracy and human rights" and 2004/30 of 19 April 2004 entitled "Enhancing the role of regional, subregional and other organizations and arrangements in promoting and consolidating democracy",

1. *Declares* that democracy includes respect for all human rights and fundamental freedoms, inter alia freedom of association and of peaceful assembly, freedom of expression and opinion, and the right to take part in the conduct of public affairs, directly or through freely chosen representatives, and to vote and to be elected at genuine periodic free elections by universal and equal suffrage and by secret ballot guaranteeing the free expression of the will of the people, as well as a pluralistic system of political parties and organizations, respect for the rule of law, the separation of powers, the independence of the judiciary, transparency and accountability in public administration, and free, independent and pluralistic media;

2. *Reaffirms* the right of every citizen to vote and be elected at genuine periodic elections without discrimination of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and stresses that persons entitled to vote must be free to vote for any candidate for election and free to support or to oppose government, without undue influence or coercion of any kind that may distort or inhibit the free expression of the elector's will, and that the results of genuine elections should be respected and implemented;

3. *Takes note with appreciation* that the Secretary-General's report entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005) recognizes that the protection and promotion of the universal values of the rule of law, human rights and democracy are ends in themselves and that they are also essential for a world of justice, opportunity and stability;

4. *Takes note with satisfaction* of the Expert Seminar on Democracy and the Rule of Law that took place from 28 February to 2 March 2005 in Geneva and welcomes the elaboration of the compilation of international and regional documents on promoting and consolidating democracy by the Office of the United Nations High Commissioner for Human Rights;

5. *Reaffirms* that democracy facilitates the promotion and protection of civil and political rights, as well as the progressive realization of all economic, social and cultural rights;

6. *Also reaffirms* that the promotion and the protection of human rights is a prerequisite for the existence of a democratic society;

7. *Recognizes* the importance of the continuous development and strengthening of the United Nations human rights system for the consolidation of democracy;

8. *Recalls* that the interdependence between a functioning democracy, strong and accountable institutions and effective rule of law is essential for a legitimate and effective Government that is respectful of human rights;

9. *Stresses* that countries emerging from conflict may have special needs in addressing legacies of human rights violations and in moving towards democratic governance and the rule of law;

10. *Welcomes* the recent encouraging developments in countries on all continents where free elections took place for the first time, positive constitutional changes were enacted and democratic institutions were strengthened;

11. *Recalls* that democratization can be a fragile process and that the rule of law and the respect of human rights are essential for the stability of democratic societies;

12. *Also recalls* that States are guarantors of democracy, human rights and the rule of law and bear responsibility for their full implementation;

13. *Welcomes* commitments made to implement the Ulaanbaatar Plan of Action: Democracy, Good Governance and Civil Society (A/58/387, annex II) adopted by the Fifth International Conference of New or Restored Democracies held from 10 to 12 September 2003 and the Seoul Plan of Action on the theme "Democracy, investing for peace and prosperity" (A/57/618, annex I) adopted by the Second Ministerial Conference of the Community of Democracies held from 10 to 12 November 2002, as well as the Bamako Declaration (A/55/731, annex) adopted by the Symposium on the Practices of Democracy, Rights and Freedoms in the French-speaking Community held from 1 to 3 November 2000;

14. *Calls upon* States to make continuous efforts to strengthen the rule of law and promote democracy by:

(*a*) Upholding the separation of powers by:

- (i) Taking appropriate legislative, judicial and other institutional measures;
- (ii) Ensuring public access to information in a manner that can be understood by people and groups in society regarding the exercise of their rights, as described in article 19 of the International Covenant on Civil and Political Rights;
- (iii) Engaging with civil society organizations and enabling them to participate in the public debate on decisions that may lead to the effective separation of powers and a fuller implementation of the rule of law;
- (iv) Taking active and consistent measures aimed at increasing awareness among the population of their human rights and of their possibilities of resorting to remedies, as established by law, when their rights are infringed;

(*b*) Guaranteeing that no individual or public or private institution is above the law, by ensuring that:

- (i) The principles of equal protection before the courts and under the law are respected within their legal systems;

(ii) Impunity is not tolerated for violations of human rights law and international humanitarian law, and that such violations are investigated and appropriately sanctioned, including by bringing the perpetrators of any crimes to justice, through domestic mechanisms or, where appropriate, regional or international mechanisms, in accordance with international standards of fairness and due process of law;

(iii) All government agents, irrespective of their positions, are promptly held fully accountable for any violation of the law that they commit;

(iv) The administration of justice is free from any form of discrimination;

(v) A sufficient degree of legal certainty and predictability is provided in the application of the law, in order to avoid any arbitrariness;

(vi) Comprehensive anti-corruption strategies and measures are adequately developed and applied in order to maintain the independence and impartiality of the judiciary, and to ensure the accountability of the members of the judiciary, legislative and executive systems;

(vii) The military remains accountable to democratically elected civilian Government;

(viii) Military courts or special tribunals are independent, competent and impartial, and that such courts or tribunals apply established procedures of due process of law and guarantees of a fair trial, in accordance with international obligations;

(*c*) Respecting equal protection under the law, by:

(i) Ensuring the right to liberty and security of persons without discrimination and access to information regarding their rights and equal access to justice, including through non-judicial measures;

(ii) Taking active measures to improve the access to justice of members of disadvantaged and vulnerable groups whose full exercise of human rights is impeded by, inter alia, the lack of information and/or resources;

(iii) Guaranteeing the right to a fair trial and to a due process of law without discrimination, including the right to be presumed innocent until proven guilty in a court of law;

(iv) Promoting continuously the independence and impartiality of a judiciary free from unlawful or corrupt outside influence;

(v) Ensuring the appropriate remedies and sanctions for violations of human rights;

(vi) Strengthening complementary effective protection of human rights by encouraging the work of human rights defenders;

(vii) Encouraging the continuous training of public servants, military personnel, parliamentary experts, lawyers, judges at all levels and the staff of the courts, as appropriate to their area of responsibility, on international standards and jurisprudence in the field of human rights, in particular with respect to legal aspects and procedures related to equality under the law;

(viii) Supporting inclusive and democratic approaches in the elaboration and revision of fundamental texts that underpin democracy and the rule of law, human rights and fundamental freedoms, such as constitutions and electoral laws;

15. *Stresses* the importance of an effective, transparent and accountable functioning of parliaments and acknowledges their fundamental role in the promotion and protection of democracy and the rule of law;

16. *Acknowledges* that the Commission, by promoting the normative content and the realization of the human rights enshrined in various international instruments, can play a role in developing the principles, norms and standards that are the basis of democracy and the implementation of the rule of law;

17. *Urges* the Office of the United Nations High Commissioner for Human Rights:

(*a*) To further develop, in close coordination with the relevant United Nations funds and programmes, its technical assistance programmes in the area of administration of justice to include more training for members of the executive, legislative and judicial branches on international human rights standards and jurisprudence, in particular on the legal and procedural aspects related to the separation of powers and to the equality under the law;

(*b*) To cooperate, in particular through its focal point set up to that effect, with national Governments and parliaments in their efforts to promote democracy and the rule of law, through partnerships with civil society organizations, in collaboration with other United Nations bodies;

(*c*) To assist Governments, at their request, in designing projects of specific technical assistance in support of democracy and the rule of law.

56th meeting
19 April 2005
[Adopted by a recorded vote of 46 votes to none,
with 7 abstentions. See chap. XI.]

2005/33. Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

The Commission on Human Rights,

Guided by articles 7, 8, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 14 and 26 of the International Covenant on Civil and Political Rights, and bearing in mind the Vienna Declaration and Programme of Action (A/CONF.157/23), in particular Part I, paragraph 27, and Part II, paragraphs 88, 90 and 95, thereof,

Convinced that an independent and impartial judiciary and an independent legal profession are essential prerequisites for the protection of human rights and for ensuring that there is no discrimination in the administration of justice,

Recalling its resolution 1994/41 of 4 March 1994, in which it requested the Chairman of the Commission to appoint, for a period of three years, a special rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, and its resolution 2003/43 of 23 April 2003, in which it decided to extend the mandate of the Special Rapporteur for a further period of three years,

Recalling also its resolution 1995/36 of 3 March 1995, in which it endorsed the decision of the Special Rapporteur to use, beginning in 1995, the short title "Special Rapporteur on the independence of judges and lawyers",

Recalling further General Assembly resolution 40/32 of 29 November 1985, as well as Assembly resolution 40/146 of 13 December 1985, in which the Assembly endorsed the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling General Assembly resolution 45/166 of 18 December 1990, in which the Assembly welcomed the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and invited Governments to respect them and to take them into account within the framework of their national legislation and practice,

Recalling also the Bangalore Principles of Judicial Conduct (E/CN.4/2003/65, annex), adopted at the Round Table Meeting of Chief Justices held in The Hague on 25 and 26 November 2002 and bringing those principles to the attention of Member States, relevant United Nations organs and intergovernmental and non-governmental organizations for their consideration,

Recalling further the recommendations adopted by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders regarding, among other things, the invitation addressed to Member States to ensure the independence and impartiality of the judiciary and the proper functioning of prosecutorial and legal services in the field of penal justice and police affairs, taking into account the Basic Principles on the Independence of the Judiciary, *Recalling* the Statement of Principles on the Independence of the Judiciary adopted in Beijing in August 1995 by the Sixth Conference of Chief Justices of Asia and the Pacific, and the Cairo Declaration, adopted in November 1995 by the Third Conference of Francophone Ministers of Justice,

Acknowledging the importance for the Special Rapporteur of being able to cooperate closely, in the framework of his mandate, with the Office of the United Nations High Commissioner for Human Rights in the field of advisory services and technical cooperation, which could contribute to guaranteeing the independence of judges and lawyers,

Recognizing the importance of the role of non-governmental organizations, bar associations and professional associations of judges in the defence of the principles of the independence of lawyers and judges,

Noting with concern the increasingly frequent attacks on their independence suffered by judges, lawyers and court officers, and aware of the close link between the weakening of safeguards for judges, lawyers and court officers and the frequency and gravity of violations of human rights,

1. *Takes note* of the report of the Special Rapporteur on the independence of judges and lawyers on the activities relating to his mandate (E/CN.4/2005/60 and Add.1 and 2 and Add.3 and Add.3/Corr.1 and Add.4);

2. *Notes* the Special Rapporteur's concern that the situation of the independence of judges and lawyers, which is the bedrock of the rule of law, remains delicate in many parts of the world;

3. *Also notes* the cooperative working methods that the Special Rapporteur has adopted to draw up his report and implement his mandate, as described in Commission resolution 1994/41;

4. *Welcomes* the numerous exchanges the Special Rapporteur has had with several intergovernmental and international organizations and United Nations bodies, and encourages him to continue along this path;

5. *Notes with appreciation* the determination of the Special Rapporteur to achieve as wide a dissemination as possible of information about existing standards relating to the independence and impartiality of the judiciary and the independence of the legal profession in conjunction with the publications and promotional activities of the Office of the High Commissioner;

6. *Invites* the High Commissioner to continue to provide technical assistance to train judges and lawyers;

7. *Calls upon* all Governments to respect and uphold the independence of judges and lawyers and, to that end, to take effective legislative, law enforcement and other appropriate measures that will enable them to carry out their professional duties without harassment or intimidation of any kind;

8. *Welcomes* the publication of *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers* in the context of the United Nations Decade for Human Rights Education;

9. *Urges* all Governments to assist the Special Rapporteur in the discharge of his mandate and to transmit to him all the information requested;

10. *Encourages* Governments that face difficulties in guaranteeing the independence of judges and lawyers, or that are determined to take measures to implement these principles further, to consult and to consider the services of the Special Rapporteur, for instance by inviting him to their country if the Government concerned deems it necessary;

11. *Takes note* of the report submitted by Mr. Emmanuel Decaux to the Sub-Commission on the Promotion and Protection of Human Rights on the administration of justice through military tribunals (E/CN.4/Sub.2/2004/7), which includes draft principles governing the administration of justice through military tribunals;

12. *Notes* that the report of Mr. Decaux containing an updated version of the draft principles will be submitted to the Commission at its sixty-second session for its consideration;

13. *Requests* the Special Rapporteur to submit a report on the activities relating to his mandate to the General Assembly at its sixtieth session and to the Commission at its sixty-second session and decides to consider the question at that session, under the same agenda item;

14. *Requests* the Secretary-General, within the limits of the United Nations regular budget, to provide the Special Rapporteur with any assistance needed for the discharge of his mandate.

56th meeting
19 April 2005
[Adopted without a vote. See chap. XI.]

2005/34. Extrajudicial, summary or arbitrary executions

The Commission on Human Rights,

Recalling the Universal Declaration of Human Rights, which guarantees the right to life, liberty and security of person, and the relevant provisions of the International Covenant on Civil and Political Rights,

Having regard to the legal framework of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions, including the provisions contained in Commission resolution 1992/72 of 5 March 1992 and General Assembly resolution 47/136 of 18 December 1992, *Mindful* of all General Assembly resolutions and of Commission resolutions on extrajudicial, summary or arbitrary executions, in particular its resolutions 2001/45 of 23 April 2001 and 2004/37 of 19 April 2004,

Recalling Economic and Social Council resolution 1984/50 of 25 May 1984 and the safeguards guaranteeing protection of the rights of those facing the death penalty, annexed thereto, and Council resolution 1989/64 of 24 May 1989 on their implementation, as well as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985,

Recalling also Economic and Social Council resolution 1989/65 of 24 May 1989, in which the Council recommended the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions,

Convinced of the need for effective action to combat and to eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent a flagrant violation of the inherent right to life,

Acknowledging that extrajudicial, summary or arbitrary executions can amount to genocide, crimes against humanity or war crimes, as defined under the Rome Statute of the International Criminal Court (A/CONF.183/9), and noting the 98 ratifications or accessions by States and the 139 signatures to date by States to the Rome Statute of the International Criminal Court as well as the first referrals by States and the Security Council of a situation to the Court and the ongoing investigations by the Prosecutor,

Acknowledging also that international human rights law and international humanitarian law are complementary and not mutually exclusive and stressing the importance of adopting a victim's perspective in the prevention of extrajudicial, summary or arbitrary executions,

Dismayed that in a number of countries impunity, the negation of justice, continues to prevail and often remains the main cause of the continued occurrence of extrajudicial, summary or arbitrary executions,

Noting with deep concern the growing number of civilians and persons *hors de combat* killed in situations of armed conflict and internal strife,

1. *Strongly condemns once again* all extrajudicial, summary or arbitrary executions that continue to take place throughout the world;

2. *Notes with deep concern* that, in certain circumstances, cases of extrajudicial, summary or arbitrary executions may result in mass murder, ethnic cleansing or genocide;

3. *Demands* that all States ensure that the practice of extrajudicial, summary or arbitrary executions is brought to an end and that they take effective action to combat and eliminate the phenomenon in all its forms;

4. *Reiterates* the obligation of all States to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, while ensuring the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law, to

grant adequate compensation within a reasonable time to the victims or their families and to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and to prevent the recurrence of such executions, as stated in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions;

5. *Reaffirms* the obligation of States to protect the inherent right to life of all persons under their jurisdiction and calls upon States concerned to investigate promptly and thoroughly all cases of killings, including those committed in the name of passion or in the name of honour, all killings committed for any discriminatory reason, including sexual orientation; racially motivated violence leading to the death of the victim; killings of members of national, ethnic, religious or linguistic minorities, of refugees, of internally displaced persons, of street children, of members of indigenous communities or of migrants; killings of persons for reasons related to their activities as human rights defenders, lawyers, doctors, journalists or as demonstrators, in particular as a consequence of their exercise of the right to freedom of opinion and expression; as well as other cases where a person's right to life has been violated, all of which are being committed in various parts of the world, and to bring those responsible to justice before a competent, independent and impartial national tribunal or, where appropriate, international tribunal, and to ensure that such killings, including those committed by security forces, police and law enforcement agents, paramilitary groups or private forces, are neither condoned nor sanctioned by government officials or personnel;

6. *Calls upon* all States in which the death penalty has not been abolished to comply with their obligations under relevant provisions of international human rights instruments, including in particular articles 6, 7 and 14 of the International Covenant on Civil and Political Rights and articles 37 and 40 of the Convention on the Rights of the Child, bearing in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 and 1989/64;

7. *Urges* all States to take all necessary and possible measures, in conformity with international human rights law and international humanitarian law, to prevent loss of life, in particular that of children, during internal and communal violence, civil unrest, public demonstrations, public emergency and armed conflicts, and to ensure, through education, training and other measures, that police, law enforcement officials, armed forces and other government officials act with restraint and in conformity with international human rights law and international humanitarian law, and to include a gender perspective in such measures;

8. *Notes with deep concern* that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions;

9. *Recognizes* the International Criminal Court as an important contribution to ending impunity for extrajudicial, summary or arbitrary executions and calls upon all States to consider signing, ratifying or acceding to the Rome Statute of the Court;

10. *Acknowledges* the importance of the special procedures of the Commission, in particular the Special Rapporteur on extrajudicial, summary or arbitrary executions, in their role as early warning mechanisms in preventing the crime of genocide and crimes against humanity, and encourages them to cooperate towards this end;

11. *Appeals* to all States to ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person and that conditions in places of detention conform to the Standard Minimum Rules for the Treatment of Prisoners and, where applicable, to the Geneva Conventions, of 12 August 1949, and the Additional Protocols thereto of 8 June 1977 in relation to the treatment of prisoners in armed conflicts, as well as to other pertinent international instruments;

12. *Takes note* of the report of the Special Rapporteur (E/CN.4/2005/7 and Corr.1 and Add.1) and the conclusions and recommendations contained therein, and invites States to give them due consideration;

13. *Commends* the important role the Special Rapporteur has played towards the elimination of extrajudicial, summary or arbitrary executions, and encourages the Special Rapporteur to continue, within the framework of his mandate, to collect information from all concerned, to respond effectively to reliable information that comes before him, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in the elaboration of his reports;

14. *Strongly urges* all States to cooperate with and assist the Special Rapporteur so that his mandate may be carried out effectively, including, where appropriate, by issuing invitations to the Special Rapporteur when he so requests, in keeping with the usual terms of reference for missions by special rapporteurs of the Commission, and to respond to the communications transmitted to them by the Special Rapporteur;

15. *Expresses its appreciation* to those States that have invited the Special Rapporteur to visit their countries, asks them to examine carefully the recommendations made by the Special Rapporteur, invites them to report to the Special Rapporteur on the actions taken on those recommendations and requests other States, including those mentioned in the report of the Special Rapporteur, to cooperate in a similar way;

16. *Calls upon* all States to reply in a timely manner to the extent possible to specific allegations, based on credible information, and reports of extrajudicial, summary or arbitrary executions transmitted to them by the Special Rapporteur, and takes note of the steps taken by the Special Rapporteur to enhance the rate and quality of responses on the part of States;

17. *Expresses its concern* that a number of States mentioned in the report of the Special Rapporteur have not replied to specific allegations, based on credible information, and reports of extrajudicial, summary or arbitrary executions transmitted to them by the Special Rapporteur;

18. *Urges* the Special Rapporteur to continue to draw to the attention of the United Nations High Commissioner for Human Rights and, as appropriate, the Special Adviser to the Secretary-General on the Prevention of Genocide such situations of extrajudicial, summary or arbitrary execution as are of particularly serious concern to him or where early action might prevent further deterioration;

19. *Welcomes* the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights and encourages the Special Rapporteur to continue his efforts in this regard;

20. *Again requests* the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources in order to enable him to carry out his mandate effectively, including through country visits;

21. *Also requests* the Secretary-General and the High Commissioner to continue to use their best endeavours in cases where the minimum standard of legal safeguards provided for in articles 6, 7, 9, 14 and 15 of the International Covenant on Civil and Political Rights appears not to be respected;

22. *Further requests* the Secretary-General to continue, in close collaboration with the High Commissioner, in conformity with the mandate of the High Commissioner established by the General Assembly in its resolution 48/141 of 20 December 1993, to ensure that personnel specialized in human rights and humanitarian law issues form part of United Nations missions, where appropriate, in order to deal with serious violations of international human rights and international humanitarian law, such as extrajudicial, summary or arbitrary executions;

23. *Decides* to consider during each of its sessions the reports of the Special Rapporteur and to take action on the question of extrajudicial, summary or arbitrary executions at its sixty-third session under the same agenda item.

56th meeting
19 April 2005
[Adopted by a recorded vote of 36 votes to none,
with 17 abstentions. See chap. XI.]

2005/35. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law

The Commission on Human Rights,

Recalling the report of the independent expert appointed by the Commission, Mr. M. Cherif Bassiouni (E/CN.4/2000/62), and, in particular, the draft of the "basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law" annexed to his report, and the note by the Secretariat (E/CN.4/2002/70),

Recalling all its previous resolutions on the matter, particularly resolution 2004/34 of 19 April 2004,

Thanking the independent experts, Mr. M. Cherif Bassiouni and Mr. Theo van Boven, for their most valuable contributions to the finalization of the draft basic principles and guidelines,

Welcoming with appreciation the report of Mr. Alejandro Salinas, Chairperson-Rapporteur of the third consultative meeting on the "basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law" (see E/CN.4/2005/59), and in particular his assessment that the mandate provided in resolution 2004/34 - to finalize the draft basic principles and guidelines - has been fulfilled as the document reflects three rounds of consultative meetings and some fifteen years of work on the text,

1. *Adopts* the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law annexed to the present resolution;

2. *Recommends* that States take the Basic Principles and Guidelines into account, promote respect thereof and bring them to the attention of members of the executive bodies of Government, in particular law enforcement officials and military and security forces, legislative bodies, the judiciary, victims and their representatives, human rights defenders and lawyers, the media and the public in general;

3. *Recommends* the following draft resolution to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. A, draft resolution.]

56th meeting
19 April 2005
[Adopted by a recorded vote of 40 votes to none, with 13 abstentions. See chap. XI.]

ANNEX

Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law

PREAMBLE

The Commission on Human Rights,

Recalling the provisions providing a right to a remedy for victims of violations of international human rights law found in numerous international instruments, in particular the Universal Declaration of Human Rights at article 8, the International Covenant on Civil and Political Rights at article 2, the International Convention on the Elimination of All Forms of Racial Discrimination at article 6, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment at article 14, the Convention on the Rights of the Child at article 39, and of international humanitarian law as found in article 3 of the Hague Convention of 18 October 1907 concerning the Laws and Customs of War on Land (Convention IV), article 91 of Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977, and articles 68 and 75 of the Rome Statute of the International Criminal Court,

Recalling the provisions providing a right to a remedy for victims of violations of international human rights found in regional conventions, in particular the African Charter on Human and Peoples' Rights at article 7, the American Convention on Human Rights at article 25, and the Convention for the Protection of Human Rights and Fundamental Freedoms at article 13, *Recalling* the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power emanating from the deliberations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and General Assembly resolution 40/34 of 29 November 1985 by which the Assembly adopted the text recommended by the Congress,

Reaffirming the principles enunciated in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, including that victims should be treated with compassion and respect for their dignity, have their right to access to justice and redress mechanisms fully respected, and that the establishment, strengthening and expansion of national funds for compensation to victims should be encouraged, together with the expeditious development of appropriate rights and remedies for victims,

Noting that the Rome Statute of the International Criminal Court (A/CONF.183/9) requires the establishment of "principles relating to reparation to, or in respect of, victims, including restitution, compensation and rehabilitation" and requires the Assembly of States Parties to establish a trust fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, and mandates the Court "to protect the safety, physical and psychological well-being, dignity and privacy of victims" and to permit the participation of victims at all "stages of the proceedings determined to be appropriate by the Court",

Affirming that the Basic Principles and Guidelines contained herein are directed at gross violations of international human rights law and serious violations of international humanitarian law which, by their very grave nature, constitute an affront to human dignity,

Emphasizing that the Basic Principles and Guidelines do not entail new international or domestic legal obligations but identify mechanisms, modalities, procedures and methods for the implementation of existing legal obligations under international human rights law and international humanitarian law which are complementary though different as to their norms,

Recalling that international law contains the obligation to prosecute perpetrators of certain international crimes in accordance with international obligations of States and the requirements of national law or as provided for in the applicable statutes of international judicial organs, and that the duty to prosecute reinforces the international legal obligations to be carried out in accordance with national legal requirements and procedures and supports the concept of complementarity,

Noting that contemporary forms of victimization, while essentially directed against persons, may nevertheless also be directed against groups of persons who are targeted collectively,

Recognizing that, in honouring the victims' right to benefit from remedies and reparation, the international community keeps faith with the plight of victims, survivors and future human generations, and reaffirms the international legal principles of accountability, justice and the rule of law,

Convinced that, in adopting a victim-oriented perspective, the international community affirms its human solidarity with victims of violations of international law, including violations of international human rights law and international humanitarian law, as well as with humanity at large, in accordance with the following Basic Principles and Guidelines,

Adopts the following Basic Principles:

I. OBLIGATION TO RESPECT, ENSURE RESPECT FOR AND IMPLEMENT INTERNATIONAL HUMAN RIGHTS LAW AND INTERNATIONAL HUMANITARIAN LAW

1. The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law emanates from:

(*a*) Treaties to which a State is a party;

(*b*) Customary international law;

(*c*) The domestic law of each State.

2. If they have not already done so, States shall, as required under international law, ensure that their domestic law is consistent with their international legal obligations by:

(*a*) Incorporating norms of international human rights law and international humanitarian law into their domestic law, or otherwise implementing them in their domestic legal system;

(*b*) Adopting appropriate and effective legislative and administrative procedures and other appropriate measures that provide fair, effective and prompt access to justice;

(*c*) Making available adequate, effective, prompt, and appropriate remedies, including reparation, as defined below; and

(*d*) Ensuring that their domestic law provides at least the same level of protection for victims as required by their international obligations.

II. SCOPE OF THE OBLIGATION

3. The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law, includes, inter alia, the duty to:

(*a*) Take appropriate legislative and administrative and other appropriate measures to prevent violations;

(*b*) Investigate violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible in accordance with domestic and international law;

(*c*) Provide those who claim to be victims of a human rights or humanitarian law violation with equal and effective access to justice, as described below, irrespective of who may ultimately be the bearer of responsibility for the violation; and

(*d*) Provide effective remedies to victims, including reparation, as described below.

III. GROSS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS LAW AND SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW THAT CONSTITUTE CRIMES UNDER INTERNATIONAL LAW

4. In cases of gross violations of international human rights law and serious violations of international humanitarian law constituting crimes under international law, States have the duty to investigate and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for the violations and, if found guilty, the duty to punish her or him. Moreover, in these cases, States should, in accordance with international law, cooperate with one another and assist international judicial organs competent in the investigation and prosecution of these violations.

5. To that end, where so provided in an applicable treaty or under other international law obligations, States shall incorporate or otherwise implement within their domestic law appropriate provisions for universal jurisdiction. Moreover, where it is so provided for in an applicable treaty or other international legal obligations, States should facilitate extradition or surrender offenders to other States and to appropriate international judicial bodies and provide judicial assistance and other forms of cooperation in the pursuit of international justice, including assistance to, and protection of, victims and witnesses, consistent with international human rights legal standards and subject to international legal requirements such as those relating to the prohibition of torture and other forms of cruel, inhuman or degrading treatment or punishment.

IV. STATUTES OF LIMITATIONS

6. Where so provided for in an applicable treaty or contained in other international legal obligations, statutes of limitations shall not apply to gross violations of international human rights law and serious violations of international humanitarian law which constitute crimes under international law.

7. Domestic statutes of limitations for other types of violations that do not constitute crimes under international law, including those time limitations applicable to civil claims and other procedures, should not be unduly restrictive.

V. VICTIMS OF GROSS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS LAW AND SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

8. For purposes of this document, victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term "victim" also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

9. A person shall be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted, or convicted and regardless of the familial relationship between the perpetrator and the victim.

VI. TREATMENT OF VICTIMS

10. Victims should be treated with humanity and respect for their dignity and human rights, and appropriate measures should be taken to ensure their safety, physical and psychological well-being and privacy, as well as those of their families. The State should ensure that its domestic laws, to the extent possible, provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation.

VII. VICTIMS' RIGHT TO REMEDIES

11. Remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim's right to the following as provided for under international law:

(*a*) Equal and effective access to justice;

(*b*) Adequate, effective and prompt reparation for harm suffered; and

(*c*) Access to relevant information concerning violations and reparation mechanisms.

VIII. ACCESS TO JUSTICE

12. A victim of a gross violation of international human rights law or of a serious violation of international humanitarian law shall have equal access to an effective judicial remedy as provided for under international law. Other remedies available to the victim include access to administrative and other bodies, as well as mechanisms, modalities and proceedings conducted in accordance with domestic law. Obligations arising under international law to secure the right to access justice and fair and impartial proceedings shall be reflected in domestic laws. To that end, States should:

(*a*) Disseminate, through public and private mechanisms, information about all available remedies for gross violations of international human rights law and serious violations of international humanitarian law;

(*b*) Take measures to minimize the inconvenience to victims and their representatives, protect against unlawful interference with their privacy as appropriate and ensure their safety from intimidation and retaliation, as well as that of their families and witnesses, before, during and after judicial, administrative, or other proceedings that affect the interests of victims;

(*c*) Provide proper assistance to victims seeking access to justice;

(*d*) Make available all appropriate legal, diplomatic and consular means to ensure that victims can exercise their rights to remedy for gross violations of international human rights law or serious violations of international humanitarian law.

13. In addition to individual access to justice, States should endeavour to develop procedures to allow groups of victims to present claims for reparation and to receive reparation, as appropriate.

14. An adequate, effective and prompt remedy for gross violations of international human rights law or serious violations of international humanitarian law should include all available and appropriate international processes in which a person may have legal standing and should be without prejudice to any other domestic remedies.

IX. REPARATION FOR HARM SUFFERED

15. Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, a legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.

16. States should endeavour to establish national programmes for reparation and other assistance to victims in the event that the party liable for the harm suffered is unable or unwilling to meet their obligations.

17. States shall, with respect to claims by victims, enforce domestic judgements for reparation against individuals or entities liable for the harm suffered and endeavour to enforce valid foreign legal judgements for reparation in accordance with domestic law and international legal obligations. To that end, States should provide under their domestic laws effective mechanisms for the enforcement of reparation judgements.

18. In accordance with domestic law and international law, and taking account of individual circumstances, victims of gross violations of international human rights law and serious violations of international humanitarian law should, as appropriate and proportional to the gravity of the violation and the circumstances of each case, be provided with full and effective reparation, as laid out in principles 19 to 23, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

19. *Restitution* should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property.

20. *Compensation* should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as:

(*a*) Physical or mental harm;

(*b*) Lost opportunities, including employment, education and social benefits;

(*c*) Material damages and loss of earnings, including loss of earning potential;

(*d*) Moral damage;

(*e*) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

21. *Rehabilitation* should include medical and psychological care as well as legal and social services.

22. *Satisfaction* should include, where applicable, any or all of the following:

(*a*) Effective measures aimed at the cessation of continuing violations;

(*b*) Verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations;

(*c*) The search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities;

(*d*) An official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim;

(*e*) Public apology, including acknowledgement of the facts and acceptance of responsibility;

(*f*) Judicial and administrative sanctions against persons liable for the violations;

(*g*) Commemorations and tributes to the victims;

(*h*) Inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels.

23. *Guarantees of non-repetition* should include, where applicable, any or all of the following measures, which will also contribute to prevention:

(*a*) Ensuring effective civilian control of military and security forces;

(*b*) Ensuring that all civilian and military proceedings abide by international standards of due process, fairness and impartiality;

(*c*) Strengthening the independence of the judiciary;

(*d*) Protecting persons in the legal, medical and health-care professions, the media and other related professions, and human rights defenders;

(*e*) Providing, on a priority and continued basis, human rights and international humanitarian law education to all sectors of society and training for law enforcement officials as well as military and security forces;

(*f*) Promoting the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises;

(*g*) Promoting mechanisms for preventing and monitoring social conflicts and their resolution;

(*h*) Reviewing and reforming laws contributing to or allowing gross violations of international human rights law and serious violations of international humanitarian law.

X. ACCESS TO RELEVANT INFORMATION CONCERNING VIOLATIONS AND REPARATION MECHANISMS

24. States should develop means of informing the general public and, in particular, victims of gross violations of international human rights law and serious violations of international humanitarian law of the rights and remedies addressed by these Basic Principles and Guidelines and of all available legal, medical, psychological, social, administrative and all other services to which victims may have a right of access. Moreover, victims and their representatives should be entitled to seek and obtain information on the causes leading to their victimization and on the causes and conditions pertaining to the gross violations of international human rights law and serious violations of international humanitarian law and to learn the truth in regard to these violations.

XI. NON-DISCRIMINATION

25. The application and interpretation of these Basic Principles and Guidelines must be consistent with international human rights law and international humanitarian law and be without any discrimination of any kind or ground, without exception.

XII. NON-DEROGATION

26. Nothing in these Basic Principles and Guidelines shall be construed as restricting or derogating from any rights or obligations arising under domestic and international law. In particular, it is understood that the present Basic Principles and Guidelines are without prejudice to the right to a remedy and reparation for victims of all violations of international human rights law and international humanitarian law. It is further understood that these Basic Principles and Guidelines are without prejudice to special rules of international law.

XIII. RIGHTS OF OTHERS

27. Nothing in this document is to be construed as derogating from internationally or nationally protected rights of others, in particular the right of an accused person to benefit from applicable standards of due process.

2005/36. The incompatibility between democracy and racism

The Commission on Human Rights,

Guided by the Universal Declaration of Human Rights, the Charter of the United Nations, the International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination,

Recalling the commitment reached in the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23) concerning the elimination of racism, racial discrimination, xenophobia and related intolerance,

Recalling also its resolutions 2000/40 of 20 April 2000, 2001/43 of 23 April 2001, 2002/39 of 23 April 2002, 2003/41 of 23 April 2003 and 2004/38 of 19 April 2004,

Recalling further the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1),

Mindful of the responsibility of Governments to ensure such equality as is established in the relevant international and regional human rights instruments, inter alia, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, *Reaffirming* that acts of racial violence and discrimination do not constitute legitimate expressions of opinion, but rather unlawful acts or offences,

Remaining alarmed by the rise of racism, racial discrimination, xenophobia and related intolerance in political circles, in the sphere of public opinion and in society at large,

Recognizing the importance of freedom of speech and the fundamental role of education and other active policies in the promotion of tolerance and respect for others and in the construction of pluralistic and inclusive societies,

1. *Condemns* political platforms and organizations based on racism, xenophobia or doctrines of racial superiority and related discrimination, as well as legislation and practices based on racism, xenophobia and related intolerance, as incompatible with democracy and transparent and accountable governance;

2. *Reaffirms* that racism, racial discrimination, xenophobia and related intolerance condoned by governmental policies violate human rights, as established in the relevant international and regional human rights instruments, and may endanger friendly relations among peoples, cooperation among nations, international peace and security and the harmony of persons living side by side within one and the same State;

3. *Also reaffirms* that any form of impunity condoned by public authorities for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy and tends to encourage the recurrence of such acts;

4. *Strongly condemns* the persistence and resurgence of neo-Nazism, neo-fascism and violent nationalist ideologies based on racial or national prejudice, and states that these phenomena can never be justified in any instance or in any circumstances;

5. *Recognizes with deep concern* the increase in anti-Semitism, and Christianophobia and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas against Arab, Christian, Jewish and Muslim communities, as well as communities of people of African descent and communities of people of Asian descent, and other communities;

6. *Emphasizes* that the elimination of all forms of discrimination, especially gender, ethnic and racial discrimination, as well as diverse forms of intolerance, the promotion and protection of human rights of persons of indigenous origin and members of indigenous communities and migrants, and respect for ethnic, cultural and religious diversity contribute to strengthening and promoting democracy and political participation;

7. *Urges* States to reinforce their commitment to promote tolerance and human rights and to fight against racism, racial discrimination, xenophobia and related intolerance as a way to strengthen democracy, the rule of law and transparent and accountable governance, and in that regard recommends measures such as introducing or reinforcing human rights education in schools and in institutions of higher education;

8. *Also urges* States to ensure that their political and legal systems reflect the multicultural diversity within their societies through promoting diversity, to improving democratic institutions, making them more fully participatory and inclusive and avoiding marginalization and exclusion of, and discrimination against, specific sectors of society;

9. *Underlines* the key role that political leaders and political parties can and ought to play in strengthening democracy by combating racism, racial discrimination, xenophobia and related intolerance, and encourages political parties to take concrete steps to promote solidarity, tolerance and respect, inter alia by developing voluntary codes of conduct which include internal disciplinary measures for violations thereof, so their members refrain from public statements and actions that encourage or incite racism, racial discrimination, xenophobia and related intolerance;

10. *Invites* the Inter-Parliamentary Union and other relevant interparliamentary organizations to encourage debate in, and action by, the concerned parliaments on various measures, including laws and policies, to combat racism, racial discrimination, xenophobia and related intolerance;

11. *Invites* the mechanisms of the Commission and the United Nations treaty bodies to continue to pay particular attention to violations of human rights stemming from the rise of racism and xenophobia in political circles and society at large, especially as regards their incompatibility with democracy;

12. *Takes note* of the report of the Office of the United Nations High Commissioner for Human Rights on the interdependence between democracy and human rights (E/CN.4/2005/57);

13. *Recommends* the creation, where they do not exist, of monitoring, reporting, documentation and information-processing institutions and procedures in order to contribute to preventing and reducing racial, ethnic or religious tensions;

14. *Encourages* States to consider developing public information, awareness-raising and education campaigns with a transdisciplinary approach with a view to combating racial prejudice;

15. *Encourages* political leaders, civil society and the media to remain vigilant against the penetration of racist and xenophobic ideas in the political platforms of democratic parties;

16. *Invites* the Office of the High Commissioner, in collaboration with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, to continue appropriate efforts to analyse further the issue of incitement and promotion of racism, racial discrimination, xenophobia and related intolerance in the political debate;

17. *Invites* the Special Rapporteur to review and further expand the study on the question of political platforms which promote or incite racial discrimination (E/CN.4/2004/61), as updated for the General Assembly (A/59/330), and to submit it to the Commission at its sixty-second session;

18. *Decides* to continue consideration of the matter at its sixty-second session under the same agenda item.

56th meeting
19 April 2005
[Adopted without a vote. See chap. XI.]

2005/37. Promoting the rights to peaceful assembly and association

The Commission on Human Rights,

Recalling that Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Recalling also that the Universal Declaration of Human Rights declares the right to freedom of peaceful assembly and association and that the International Covenant on Civil and Political Rights provides for the right of peaceful assembly and the right to freedom of association with others,

Recalling further the Philadelphia Declaration adopted by the General Conference of the International Labour Organization on 10 May 1944 and incorporated subsequently into the Constitution of the Organization, in which the Members reaffirmed the fundamental principles on which the International Labour Organization is based, in particular that freedom of expression and of association are essential to sustained progress, and relevant conventions, declarations, programmes and activities underscoring the importance of freedom of association,

Recognizing that the rights to freedom of peaceful assembly and of association are essential components of democracy, providing individuals with invaluable opportunities to, inter alia, express political opinions, engage in literary and artistic pursuits and other cultural and social activities, engage in religious observances, form and join trade unions, and elect leaders to represent their interests,

Recalling that, according to the International Covenant on Civil and Political Rights, the exercise of the rights to peaceful assembly and association can be subject to certain restrictions,

Recognizing that exercising the rights to freedom of peaceful assembly and of association free of constraint, except where consistent with applicable international law, in particular international human rights law, is indispensable to the full enjoyment of these rights, particularly where individuals may espouse minority or dissenting religious or political beliefs,

Recognizing also that no one may be compelled to belong to an association,

1. *Calls upon* Member States to respect and fully protect the rights to assemble peacefully and associate freely of all individuals, including those espousing minority or dissenting views or beliefs, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with applicable international law, including the International Covenant on Civil and Political Rights;

2. *Calls upon* the Office of the United Nations High Commissioner for Human Rights to assist States to promote and protect the rights to freedom of peaceful assembly and of association, including through the technical assistance programmes of her Office, at the request of States, as well as to cooperate with relevant bodies of the United Nations system and other intergovernmental organizations to assist States to promote and protect the rights to freedom of peaceful assembly and of association;

3. *Encourages* civil society, including non-governmental organizations and the private sector, to promote and facilitate the enjoyment of the rights to freedom of peaceful assembly and of association;

4. *Calls upon* the special procedures of the Commission, as appropriate, to consider the rights to freedom of peaceful assembly and of association in the exercise of their mandates;

5. *Decides* to consider the present resolution at its sixty-third session under the same agenda item.

57th meeting
19 April 2005
[Adopted by a recorded vote of 45 votes to none,
with 8 abstentions. See chap. XI.]

2005/38. The right to freedom of opinion and expression

The Commission on Human Rights,

Recalling its previous resolutions on the right to freedom of opinion and expression, inter alia, its resolution 2004/42 of 19 April 2004,

Recognizing that the exercise of the right to freedom of opinion and expression is one of the essential foundations of a democratic society; is enabled by a democratic environment which, inter alia, offers guarantees for its protection; is essential to full and effective participation in a free and democratic society; and is instrumental to the development and strengthening of effective democratic systems,

Recognizing also that the effective exercise of the right to freedom of opinion and expression is an important indicator of the level of protection of other human rights and freedoms, bearing in mind that all human rights are universal, indivisible, interdependent and interrelated, *Deeply concerned* that violations of the right to freedom of opinion and expression continue to occur, including increased attacks directed against, and killings of, journalists and media workers, and stressing the need to ensure greater protection for all media professionals and for journalistic sources,

Stressing the need to ensure that invocation of national security, including counter-terrorism, is not used unjustifiably or arbitrarily to restrict the right to freedom of opinion and expression,

Stressing also the importance of full respect for the freedom to seek, receive and impart information, including the fundamental importance of access to information to democratic participation, to accountability and to combating corruption,

Recognizing the importance of all forms of the media, including the print media, radio, television and the Internet, in the exercise, promotion and protection of the right to freedom of opinion and expression,

1. *Reaffirms* the rights contained in the International Covenant on Civil and Political Rights regarding the right of everyone to hold opinions without interference, as well as the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice, and the intrinsically linked rights to freedom of thought, conscience and religion, peaceful assembly and association and the right to take part in the conduct of public affairs;

2. *Takes note* of the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/2005/64 and Corr.1 and Add.1-5) and welcomes in particular his ongoing and increasing cooperation with other mechanisms and organizations;

3. *Expresses its continuing concern* that:

(*a*) Violations of the rights referred to in paragraph 1 above continue to occur, often with impunity, including extrajudicial killing, arbitrary detention, torture, intimidation, persecution and harassment, threats and acts of violence and of discrimination, including gender-based violence and discrimination, increased abuse of legal provisions on defamation and criminal libel as well as on surveillance, search and seizure, and censorship, against persons who exercise, seek to promote or defend these rights, including journalists, writers and other media workers, Internet users and human rights defenders;

(*b*) These violations are facilitated and aggravated by abuse of states of emergency;

(*c*) Threats and acts of violence, including killings, attacks and terrorist acts, particularly directed against journalists and other media workers in situations of armed conflict, have increased and are not adequately punished, in particular in those circumstances where public authorities are involved in committing those acts;

(*d*) High rates of illiteracy continue to exist in the world, especially among women, and reaffirms that full and equal access to education for girls and boys, women and men, is crucial for the full enjoyment of the right to freedom of opinion and expression;

(*e*) Media concentration is a growing phenomenon in the world, and can limit a plurality of views;

4. *Calls upon* all States:

(*a*) To respect and ensure respect for the rights referred to in paragraph 1 above;

(*b*) To take all necessary measures to put an end to violations of these rights and to create conditions to prevent such violations, including by ensuring that relevant national legislation complies with their international human rights obligations and is effectively implemented;

(*c*) To ensure that victims of violations of these rights have an effective remedy, to investigate effectively threats and acts of violence, including terrorist acts, against journalists, including in situations of armed conflict, and to bring to justice those responsible to combat impunity;

(*d*) To ensure that persons exercising these rights are not discriminated against, particularly in employment, housing, the justice system, social services and education, with particular attention to women;

(*e*) To facilitate the full, equal and effective participation and free communication of women at all levels of decision-making in their societies and in national, regional and international institutions, including in mechanisms for the prevention, management and resolution of conflicts;

(*f*) To enable children to exercise their right to express their views freely, including through school curricula that encourage the development and respect for different opinions, in all matters affecting them, the views of the child being given due weight in accordance with the age and maturity of the child;

(*g*) To respect freedom of expression in the media and broadcasting, in particular the editorial independence of the media;

(*h*) To promote a pluralistic approach to information and multiple points of views through encouraging a diversity of ownership of media and of sources of information, including mass media, through, inter alia, transparent licensing systems and effective regulations on undue concentration of ownership of the media in the private sector;

(*i*) To create and permit an enabling environment in which training and professional development of the media can be organized in order to promote and protect the right to freedom of opinion and expression and can be carried out without threat of legal, criminal or administrative sanction by the State;

(*j*) To refrain from the use of imprisonment or the imposition of fines for offences relating to the media, which are disproportionate to the gravity of the offence and which violate international human rights law;

(*k*) To adopt and implement policies and programmes that aim to effectively raise awareness of, and disseminate information and education on, prevention and treatment of HIV/AIDS and other diseases through effective and equal access to information and all appropriate means, including through the media and availability of information and communication technologies, and targeted at specific vulnerable groups;

(*l*) To adopt and implement laws and policies that provide for a general right of public access to information held by public authorities, which may be restricted only in accordance with article 19 of the International Covenant on Civil and Political Rights;

(*m*) To facilitate equal participation in, access to and use of, information and communications technology such as the Internet, applying a gender perspective, and to encourage international cooperation aimed at the development of media and information and communication facilities in all countries;

(*n*) To review their procedures, practices and legislation, as necessary, to ensure that any limitations on the right to freedom of opinion and expression are only such as are provided by law and are necessary for the respect of the rights and reputations of others, or for the protection of national security or of public order (*ordre public*) or of public health or morals;

(*o*) To refrain from using counter-terrorism as a pretext to restrict the right to freedom of opinion and expression in ways that are contrary to their obligations under international law;

(*p*) While noting that article 19, paragraph 3, of the International Covenant on Civil and Political Rights provides that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on:

(i) Discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups;

(ii) The free flow of information and ideas, including practices such as the banning or closing of publications or other media and the abuse of administrative measures and censorship;

(iii) Access to or use of information and communication technologies, including radio, television and the Internet;

5. *Calls* on all parties to armed conflict to respect international humanitarian law, including their obligations under the Geneva Conventions, of 12 August 1949, for the protection of victims of war and the two Additional Protocols thereto of 8 June 1977, whose provisions extend protection to journalists in situations of armed conflict;

6. *Recognizes* the positive contribution that the exercise of the right to freedom of expression, particularly by the media, including through information and communication technologies such as the Internet, and full respect for the freedom to seek, receive and impart information, can make to the fight against racism, racial discrimination, xenophobia and related intolerance and to preventing human rights abuses, but expresses regret about the promotion by certain media of false images and negative stereotypes of vulnerable individuals or groups of individuals, and about the use of information and communication technologies such as the Internet for purposes contrary to respect for human rights, in particular the perpetration of violence against and exploitation and abuse of women and children and disseminating racist and xenophobic discourse or content;

7. *Invites* the Special Rapporteur, within the framework of his mandate, to continue to carry out his activities in accordance with its resolution 2004/76 of 21 April 2004 on human rights and special procedures and paragraph 17 (*a*) to (*d*) and (*f*) of its resolution 2003/42, in particular his cooperation with other mechanisms and human rights treaty bodies and organizations, including regional organizations and non-governmental organizations;

8. *Appeals* to all States to cooperate fully with and assist the Special Rapporteur in the performance of his tasks, to provide all necessary information requested by him and to consider favourably his requests for visits and for implementing his recommendations;

9. *Invites once again* the United Nations High Commissioner for Human Rights, the working groups, representatives and special rapporteurs of the Commission and human rights treaty bodies to pay attention, within the framework of their mandates, to the situation of persons whose right to freedom of opinion and expression has been violated;

10. *Reminds* States of the possibility of seeking technical assistance if needed, including from the Office of the United Nations High Commissioner for Human Rights, to better promote and protect the right to freedom of opinion and expression;

11. *Welcomes* the participation of the Special Rapporteur in the first preparatory meeting for the second phase of the World Summit on the Information Society, which took place in Hammamet, Tunisia, from 24 to 26 June 2004, and stresses the importance of the continued active participation of the Special Rapporteur and the High Commissioner, within the framework of their mandates, in the second phase, including preparatory meetings, of the World Summit, to be held in Tunis from 16 to 18 November 2005, to provide information and expertise on matters related to the right to freedom of opinion and expression;

12. *Again requests* the Secretary-General to provide the assistance necessary to the Special Rapporteur to fulfil his mandate effectively, in particular by placing adequate human and material resources at his disposal;

13. *Decides* to extend the mandate of the Special Rapporteur for a further three years;

14. *Requests* the Special Rapporteur to submit each year to the Commission a report covering activities relating to his mandate;

15. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 10.]

57th meeting
19 April 2005
[Adopted without a vote. See chap. XI.]

2005/39. Torture and other cruel, inhuman or degrading treatment or punishment

The Commission on Human Rights,

Reaffirming that no one should be subjected to torture or other cruel, inhuman or degrading treatment or punishment, as defined in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right and must be protected under all circumstances, including in times of international and internal armed conflict or internal disturbance, and that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as in other relevant international instruments, as set out in the second preambular paragraph of Commission resolution 2001/62 of 25 April 2001,

Recalling also that a number of international, regional and domestic courts, including the International Criminal Tribunal for the Former Yugoslavia, have recognized that the prohibition of torture is a peremptory norm of international law,

Noting that under the Geneva Conventions, of 12 August 1949, torture is a grave breach and that under the statute of the International Criminal Tribunal for the Former Yugoslavia, the statute of the International Tribunal for Rwanda and the Rome Statute of the International Criminal Court acts of torture can constitute crimes against humanity and war crimes,

Emphasizing the importance of Governments taking persistent action to prevent and combat torture, inter alia by ensuring proper follow-up of recommendations of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,

Commending the persistent efforts by civil society, in particular non-governmental organizations, to combat torture and to alleviate the suffering of victims of torture, *Recalling* all relevant resolutions of the General Assembly, the Economic and Social Council and its own resolutions on the subject, in particular Commission resolution 2004/41 of 19 April 2004 and taking note of Assembly resolution 59/182 of 20 December 2004,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. *Condemns in particular* any action or attempt by States or public officials to legalize, authorize or acquiesce in torture under any circumstances, including on grounds of national security or through judicial decisions;

3. *Stresses in particular* that all allegations of torture or other cruel, inhuman or degrading treatment or punishment must be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and takes note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) - annexed to Commission resolution 2000/43 of 20 April 2000, as well as General Assembly resolution 55/89 of 4 December 2000 - as a useful tool in efforts to combat torture;

4. *Urges* States to ensure that any statement, that is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made;

5. *Also urges* States not to expel, return (*refouler*), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture;

6. *Stresses* that national legal systems should ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate socio-medical rehabilitation, and in this regard encourages the development of rehabilitation centres for victims of torture;

7. *Reminds* Governments that corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even to torture;

8. *Also reminds* Governments that, as described in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, intimidation and coercion, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture;

9. *Reminds* all States that prolonged incommunicado detention or detention in secret places may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person;

10. *Recalls* General Assembly resolution 43/173 of 9 December 1988, entitled "Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment";

11. *Stresses* that all acts of torture must be made offences under domestic criminal law, and emphasizes that acts of torture are serious violations of international human rights law and humanitarian law and can constitute crimes against humanity and war crimes, and that the perpetrators are liable to prosecution and punishment;

12. *Also stresses* that States must not punish personnel for not obeying orders to commit acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

13. *Urges* Governments to protect medical and other personnel for their role in documenting torture or any other form of cruel, inhuman or degrading treatment or punishment and in treating victims of such acts;

14. *Emphasizes* that States must ensure education and training for personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment, and calls upon the United Nations High Commissioner for Human Rights, in conformity with the mandate established in General Assembly resolution 48/141 of 20 December 1993, to provide, at the request of Governments, advisory services in this regard, as well as technical assistance in the development, production and distribution of appropriate teaching material for this purpose;

15. *Invites* donor countries, recipient countries and relevant United Nations organizations, funds and programmes, in particular the Office of the United Nations High Commissioner for Human Rights, to consider, where appropriate, including in their respective bilateral programmes and technical cooperation projects relating to the training of relevant personnel, inter alia armed forces, security forces, border guards, prison and police personnel and health-care personnel, matters relating to the protection of human rights, including the prevention of torture, while bearing in mind a gender perspective;

16. *Welcomes* the study by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment concerning the situation of trade in and production of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment, its origin, destination and forms (see E/CN.4/2005/62), and calls upon Governments to consider taking effective legislative, administrative, judicial and other measures to prohibit the production, trade, export and use of such equipment, as recommended by the Special Rapporteur;

17. *Urges* all States to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as a matter of priority;

18. *Calls upon* all States to ensure that no reservation is incompatible with the object and purpose of the Convention and encourages States parties to consider limiting the extent of any reservations they lodge to the Convention, to formulate any reservations as precisely and narrowly as possible and to review regularly any reservations made in respect of the provisions of the Convention, with a view to withdrawing them;

19. *Invites* all States ratifying or acceding to the Convention and those States parties that have not yet done so to make the declarations provided for in articles 21 and 22 of the Convention and urges States parties to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;

20. *Urges* all States parties to comply strictly with their obligations in accordance with article 19 of the Convention, including their reporting obligations, and, in particular, those States parties whose reports are long overdue to submit their reports forthwith, and invites States parties to incorporate a gender perspective and information concerning children and juveniles when submitting reports to the Committee against Torture;

21. *Calls upon* States parties to give early consideration to signing and ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, providing further measures for use in the fight against and prevention of torture, which was adopted on 18 December 2002 by the General Assembly in its resolution 57/199, and notes in this context that ratification by 20 States is required for the Optional Protocol to enter into force;

22. *Welcomes* the report of the Committee against Torture on its thirty-first and thirty-second sessions (A/59/44);

23. *Also welcomes* the work of the Committee and its practice of formulating concluding observations after the consideration of reports and recognizes the importance of the process of individual communications relating to States that have made the declaration under article 22 of the Convention, as well as its practice of carrying out inquiries into cases where there are indications of the systematic practice of torture within the jurisdiction of States parties, and urges States parties to take fully into account such conclusions and recommendations, as well as views on individual communications;

24. *Takes note with appreciation* of the report of the Secretary-General on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/2005/53) and requests the Secretary-General to continue to submit an annual report to the Commission;

25. *Welcomes* the report of the Special Rapporteur on the question of torture (E/CN.4/2005/62 and Add.1-3) and the recommendations contained therein;

26. *Underlines* the importance of the mandate of the Special Rapporteur in the elimination of torture and other cruel, inhuman or degrading treatment or punishment, recalls the methods of work of the Special Rapporteur (E/CN.4/1997/7, annex), approved by the Commission in its resolution 2001/62, and draws the attention of the Special Rapporteur to those aspects related to his activities set out in paragraphs 4, 30 and 31 of Commission resolution 2004/41, with a view to his reporting to the Commission as appropriate;

27. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by him and to react appropriately and expeditiously to his urgent appeals, and urges those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer without further delay;

28. *Also calls upon* all Governments to give serious consideration to responding favourably to the Special Rapporteur's requests to visit their countries and urges them to enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to his recommendations, so as to enable him to fulfil his mandate even more effectively;

29. *Invites* the Special Rapporteur to submit an interim report to the General Assembly at its sixtieth session on the overall trends and developments with regard to his mandate and a full report to the Commission at its sixty-second session, including as addenda all replies sent by Governments that are received in any of the official languages of the United Nations;

30. *Takes note* of the report of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture (E/CN.4/2005/54 and Corr.1);

31. *Welcomes* the final report on the evaluation of the Fund (E/CN.4/2005/55) and calls on the Fund to continue to implement the recommendations contained therein, including on the reform of its working methods;

32. *Recognizes* the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the Fund and appeals to all Governments, organizations and individuals to contribute annually to the Fund, preferably with a substantial increase in the contributions;

33. *Requests* the Secretary-General to continue to include the Fund, on an annual basis, among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities and to transmit to all Governments the appeals of the Commission for contributions to the Fund;

34. *Calls upon* the Board of Trustees of the Fund to report to the Commission at its sixty-second session;

35. *Requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of an adequate and stable level of staffing, as well as the necessary technical facilities, for the bodies and mechanisms involved in combating torture and assisting victims of torture, in order to ensure their effective performance commensurate with the strong support expressed by Member States for combating torture and assisting victims of torture;

36. *Calls upon* all Governments, the High Commissioner and United Nations bodies and agencies, as well as relevant intergovernmental and non-governmental organizations, to commemorate on 26 June the United Nations International Day in Support of Victims of Torture as proclaimed by the General Assembly in its resolution 52/149 of 12 December 1997;

37. *Decides* to continue to consider this matter at its sixty-second session, as a matter of priority.

57th meeting
19 April 2005
[Adopted without a vote. See chap. XI.]

2005/40. Elimination of all forms of intolerance and of discrimination based on religion or belief

The Commission on Human Rights,

Recalling General Assembly resolution 36/55 of 25 November 1981, by which it proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Recalling also article 18 of the International Covenant on Civil and Political Rights, article 18 of the Universal Declaration of Human Rights and other relevant human rights provisions,

Reaffirming the call of the World Conference on Human Rights upon all Governments to take all appropriate measures in compliance with their international obligations and with due regard to their respective legal systems to counter intolerance and related violence based on religion or belief, including practices of discrimination against women and the desecration of religious sites, recognizing that every individual has the right to freedom of thought, conscience, expression and religion,

Reaffirming also the recognition by the World Conference on Human Rights that all human rights are universal, indivisible, interdependent, and interrelated,

Recalling General Assembly resolution 56/6 of 9 November 2001 on the Global Agenda for Dialogue among Civilizations, in which the Assembly recognized the valuable contribution that dialogue among civilizations can make to an improved awareness and understanding of the common values shared by all humankind,

Considering that the disregard for and infringement of human rights and fundamental freedoms, in particular of the right to freedom of thought, conscience, religion or belief, have brought, directly or indirectly, wars and great suffering to humankind,

Considering also that religion or belief, for those who profess either, is one of the fundamental elements in their conception of life and that freedom of religion or belief should be fully respected and guaranteed,

Seriously concerned at all attacks upon religious places, sites and shrines, including any deliberate destruction of relics and monuments,

Seriously concerned also at the misuse of registration procedures as a means to limit the right to freedom of religion or belief of members of certain religious communities, as well as at the limitations placed on religious publications,

Recognizing the important work carried out by the Human Rights Committee in providing guidance with respect to the scope of the freedom of religion or belief, *Recognizing also* the importance of promoting dialogue among civilizations in order to enhance mutual understanding and knowledge among different social groups, cultures and civilizations in various areas, including culture, religion, education, information, science and technology, as well as in order to contribute to the promotion and protection of human rights and fundamental freedoms,

Convinced of the need to address, for instance in the context of the Global Agenda for Dialogue among Civilizations, the rise of religious extremism affecting the rights of individuals and groups based on religion or belief in all parts of the world, the situations of violence and discrimination that affect many women as a result of religion or belief, and the abuse of religion or belief for ends inconsistent with the Charter of the United Nations and other relevant instruments of the United Nations,

Resolved to adopt all necessary and appropriate measures for the speedy elimination of such intolerance based on religion or belief in all its forms and manifestations and to prevent and combat discrimination based on religion or belief,

Noting that a formal or legal distinction at the national level between different kinds of religions or faith-based communities may, in some cases, constitute discrimination and may impinge on the enjoyment of the freedom of religion or belief,

Underlining the importance of education in the promotion of tolerance, which involves the acceptance by the public of, and its respect for, diversity, including with regard to religious expressions, and also underlining that education, in particular at school, should contribute in a meaningful way to promoting tolerance and the elimination of discrimination based on religion or belief,

Recalling the importance of the International Consultative Conference on School Education in Relation with Freedom of Religion or Belief, Tolerance and Non-Discrimination held in Madrid in November 2001, and continuing to invite Governments to give consideration to the Final Document adopted at the Conference,

Recognizing the importance of inter- and intra-religious dialogue and the role of religious and other non-governmental organizations in promoting tolerance in matters relating to religion and belief,

Believing that further intensified efforts are therefore required to promote and protect the right to freedom of thought, conscience, religion or belief and to eliminate all forms of hatred, intolerance and discrimination based on religion or belief, as also noted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

1. *Takes note with appreciation* of the report of the Special Rapporteur on freedom of religion or belief (E/CN.4/2005/61 and Corr.1 and Add.1 and 2);

2. *Condemns* all forms of intolerance and of discrimination based on religion or belief;

3. *Encourages* the efforts made by the United Nations High Commissioner for Human Rights to coordinate in the field of human rights the activities of relevant United Nations organs, bodies and mechanisms dealing with all forms of intolerance and of discrimination based on religion or belief;

4. *Urges* States:

(*a*) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, the right to practise freely one's religion, including the right to change one's religion or belief, is violated;

(*b*) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights law, to ensure that religious places, sites, shrines and religious expressions are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction;

(*c*) To review, whenever relevant, existing registration practices in order to ensure the right of all persons to manifest their religion or belief, alone or in community with others and in public or in private;

(*d*) To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes, as well as the right of all persons to write, issue and disseminate relevant publications in these areas, taking into account the limitations contained in article 29 of the Universal Declaration on Human Rights;

(*e*) To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom for all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected;

(*f*) To ensure that no one within their jurisdiction is deprived of the right to life, liberty, or security of person because of religion or belief and that no one is subjected to torture or arbitrary arrest or detention on that account, and to bring to justice all perpetrators of violations of these rights;

(*g*) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of their official duties, respect different religions and beliefs and do not discriminate on the grounds of religion or belief, and that all necessary and appropriate education or training is provided;

5. *Stresses* the need to strengthen dialogue, inter alia by revitalizing the Global Agenda for Dialogue among Civilizations, and invites States, the Special Rapporteur, the Office of the United Nations High Commissioner for Human Rights and other relevant parts of the United Nations system, such as the United Nations Educational, Scientific and Cultural Organization, other international and regional organizations, as well as civil society to consider

promoting dialogue among civilizations in order to contribute to the elimination of intolerance and discrimination based on religion or belief, inter alia by addressing the following issues within the framework of international standards of human rights:

(*a*) The rise of religious extremism affecting religions in all parts of the world;

(*b*) The situations of violence and discrimination that affect many women as a result of religion or belief;

(*c*) The use of religion or belief for ends inconsistent with the Charter of the United Nations and other relevant instruments of the United Nations;

6. *Recognizes with deep concern* the overall rise in instances of intolerance and violence directed against members of many religious communities in various parts of the world, including cases motivated by Islamophobia, anti-Semitism and Christianophobia;

7. *Expresses concern* at the persistence of institutionalized social intolerance and discrimination practised in the name of religion or belief against many communities;

8. *Urges* States to step up their efforts to eliminate intolerance and discrimination based on religion or belief, notably by:

(*a*) Taking all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, with particular regard to religious minorities, and also to devote particular attention to practices that violate the human rights of women and discriminate against women, including in the exercise of their right to freedom of thought, conscience, religion or belief;

(*b*) Promoting and encouraging, through education and other means, understanding, tolerance and respect in all matters relating to freedom of religion or belief;

(*c*) Making all appropriate efforts to encourage those engaged in teaching to cultivate respect for all religions or beliefs, thereby promoting mutual understanding and tolerance;

9. *Recognizes* that the exercise of tolerance and non-discrimination by all actors in society is necessary for the full realization of the aims of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and invites Governments, religious bodies and civil society to continue to undertake dialogue at all levels to promote greater tolerance, respect and understanding;

10. *Emphasizes* the importance of a continued and strengthened dialogue among and within religions or beliefs, encompassed by the dialogue among civilizations, to promote greater tolerance, respect and mutual understanding;

11. *Also emphasizes* that equating any religion with terrorism should be avoided as this may have adverse consequences on the enjoyment of the right to freedom of religion or belief of all members of the religious communities concerned;

12. *Further emphasizes* that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion;

13. *Encourages* the continuing efforts in all parts of the world by the Special Rapporteur to examine incidents and governmental actions that are incompatible with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and to recommend remedial measures as appropriate;

14. *Stresses* the need for the Special Rapporteur to continue to apply a gender perspective, inter alia through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations;

15. *Urges* all Governments to cooperate fully with the Special Rapporteur and to respond favourably to her request to visit their countries so as to enable her to fulfil her mandate even more effectively;

16. *Welcomes* the work of the Special Rapporteur and reiterates the need for her to be able to respond effectively to credible and reliable information that comes before her, and invites her to continue to seek the views and comments of Governments concerned in the elaboration of her report, as well as to continue to carry out her work with discretion, objectivity and independence;

17. *Welcomes and encourages* the continuing efforts of non-governmental organizations and bodies and groups based on religion or belief to promote the implementation of the Declaration on the Elimination of All Forms of Discrimination Based on Religion or Belief, and further encourages their work in promoting freedom of religion or belief and in highlighting cases of religious intolerance, discrimination and persecution;

18. *Recommends* that the United Nations and other actors, in their efforts to promote freedom of religion or belief, ensure the widest possible dissemination of the text of the Declaration, in as many different languages as possible, by United Nations information centres, as well as by other interested bodies;

19. *Decides* to continue its consideration of measures to implement the Declaration;

20. *Requests* the Secretary-General to ensure that the Special Rapporteur receives the necessary resources to enable her to discharge her mandate fully;

21. *Requests* the Special Rapporteur to submit an interim report to the General Assembly at its sixtieth session and to report to the Commission at its sixty-second session;

22. *Decides* to consider the question of the elimination of all forms of religious intolerance at its sixty-second session under the same agenda item.

57th meeting
19 April 2005
[Adopted without a vote. See chap. XI.]

2005/41. Elimination of violence against women

The Commission on Human Rights,

Reaffirming that discrimination on the basis of sex is contrary to the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments, and that its elimination is an integral part of efforts towards the elimination of violence against women and girls,

Reaffirming the Vienna Declaration and Programme of Action, the Declaration on the Elimination of Violence against Women, the Beijing Declaration and Platform for Action, the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century", and the Declaration adopted at the forty-ninth session of the Commission on the Status of Women,

Recalling all its previous resolutions on the elimination of violence against women, in particular its resolution 1994/45 of 4 March 1994, in which it decided to appoint a special rapporteur on violence against women, its causes and consequences, all General Assembly resolutions relevant to elimination of violence against women, and Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security,

Reaffirming the responsibility of all States to put an end to impunity and prosecute those responsible for genocide, crimes against humanity and war crimes,

Recalling the inclusion of gender-related crimes and crimes of sexual violence in the Rome Statute of the International Criminal Court (A/CONF.183/9), which affirms that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence of comparable gravity constitute, in defined circumstances, a crime against humanity and/or a war crime, and reiterating that acts of sexual violence in situations of armed conflict can constitute serious violations or grave breaches of international humanitarian law,

Deeply concerned that all forms of discrimination, including racism, racial discrimination, xenophobia and related intolerance, and multiple or aggravated forms of discrimination and disadvantage can lead to the particular targeting or vulnerability to violence of girls and some groups of women, such as women belonging to minority groups, indigenous women, refugee and internally displaced women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, women with disabilities, elderly women, widows and women in situations of armed conflict, and women who are otherwise discriminated against, including on the basis of HIV status, *Noting with concern* the reported incidents of violence committed against women and girls on the basis of dress code,

1. *Welcomes*:

(*a*) The report of the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/2005/72 and Corr.1 Add.1 and Corr.1, and Add.2-5), including her work on the relationship between violence against women and HIV/AIDS;

(*b*) The initiatives, increasing efforts and important contributions at the national, regional and international levels to eliminate all forms of violence against women and girls and encourages the continued efforts of States, all United Nations bodies, funds and programmes, regional organizations and non-governmental organizations, including women's organizations, to build upon these successful initiatives, and to support and participate in regional consultations in this area;

2. *Reaffirms* that the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life, and encompasses but is not limited to domestic violence, crimes committed in the name of honour, crimes committed in the name of passion, trafficking in women and girls, traditional practices harmful to women and girls, including female genital mutilation, early and forced marriages, female infanticide, dowry-related violence and deaths, acid attacks and violence related to commercial sexual exploitation as well as economic exploitation;

3. *Strongly condemns* all acts of violence against women and girls, whether these acts are perpetrated by the State, by private persons or non-State actors, and calls for the elimination of all forms of gender-based violence in the family, within the general community and where perpetrated or condoned by the State, in accordance with the Declaration on the Elimination of Violence against Women, and stresses the need to treat all forms of violence against women and girls as a criminal offence, punishable by law, as well as the duty to provide access to just and effective remedies and specialized assistance to victims, including medical and psychological assistance, as well as effective counselling;

4. *Reaffirms* that States have an obligation to exercise due diligence to prevent, investigate and punish the perpetrators of violence against women and girls and to provide protection to the victims, and that failure to do so violates and impairs or nullifies the enjoyment of their human rights and fundamental freedoms;

5. *Strongly condemns* physical, sexual and psychological violence occurring in the family, which encompasses, but is not limited to, battering, sexual abuse of women and girls in the household, dowry-related violence, marital rape, female infanticide, female genital mutilation, crimes committed against women and girls in the name of honour, crimes committed in the name of passion, traditional practices harmful to women and girls, incest, early and forced marriages, non-spousal violence and violence related to commercial sexual exploitation as well as economic exploitation;

6. *Stresses* that all forms of violence against women occur within the context of de jure and de facto discrimination against women and the lower status accorded to women in society and are exacerbated by the obstacles women often face in seeking remedies from the State;

7. *Emphasizes* that violence against women and girls has an impact on their physical and mental health, including their reproductive and sexual health, and, in this regard, encourages States to ensure the availability to women and girls of comprehensive and accessible health-care services and programmes and to health-care providers who are knowledgeable and trained to recognize signs of violence against women and girls and to meet the needs of patients who have been subjected to violence, in order to minimize the adverse physical and psychological consequences of violence;

8. *Stresses* that women should be empowered to protect themselves against violence and, in this regard, stresses that women have the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence;

9. *Emphasizes* that violence against women and girls, inter alia rape, including marital rape, female genital mutilation, incest, early and forced marriage, violence related to trafficking, violence related to commercial sexual exploitation and economic exploitation, as well as other forms of sexual violence, increases their vulnerability to HIV/AIDS, that HIV infection further increases women's and girls' vulnerability to violence, and that violence against women and girls contributes to the conditions fostering the spread of HIV/AIDS;

10. *Urges* Governments to strengthen initiatives that would increase the capacities of women and adolescent girls to protect themselves from the risk of HIV infection, principally through the provision of health care and health services, including for sexual and reproductive health, and through prevention education and campaigns that promote gender equality within a culturally and gender-sensitive framework, taking into account the recommendations made by the Special Rapporteur;

11. *Also urges* Governments to effectively promote and protect women's and girls' human rights, including reproductive rights and sexual health, in the context of HIV/AIDS to lessen their vulnerability to HIV infection and to the impact of AIDS, as included in the summary of the Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, para. 12) and to cooperate with United Nations bodies, programmes and specialized agencies, and international and non-governmental organizations in this regard;

12. *Encourages* Governments, in collaboration with United Nations bodies, programmes and specialized agencies, and international and non-governmental organizations to provide comprehensive care for victims of sexual violence, including psychosocial and legal support, the timely and sufficient use of affordable and effective antiretroviral drugs both for post-exposure prophylaxis and for ongoing treatment in case of HIV infection;

13. *Urges* Governments to design and implement programmes to encourage and enable men and adolescent boys to adopt safe, informed and responsible sexual and reproductive behaviour, and to use effectively methods to prevent unwanted pregnancies and sexually transmitted infections, including HIV/AIDS;

14. *Reminds* Governments that their obligations under the Convention on the Elimination of All Forms of Discrimination against Women must be implemented fully with regard to violence against women, taking into account general recommendation No. 19 (1992) on violence against women adopted by the Committee on the Elimination of Discrimination against Women at its eleventh session, reaffirms their commitment to accelerate the achievement of universal ratification of the Convention, and urges all States that have not yet ratified or acceded to the Convention, to consider doing so, as a matter of priority;

15. *Urges* States parties to limit the extent of any reservations to the Convention on the Elimination of All Forms of Discrimination against Women, to formulate any such reservations as precisely and as narrowly as possible, to ensure that no reservations are incompatible with the object and purpose of the Convention, to review their reservations regularly with a view to withdrawing them and to withdraw reservations that are contrary to the object and purpose of the Convention;

16. *Also urges* States parties to consider signing and ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;

17. *Stresses* that States have an affirmative duty to promote and protect the human rights and fundamental freedoms of women and girls and must exercise due diligence to prevent, investigate and punish all acts of violence against women and girls, and calls upon States:

(*a*) To apply international human rights norms and to consider, as a matter of priority, becoming party to international human rights instruments that relate to violence against women and girls, and to implement fully their international obligations;

(*b*) To accelerate their efforts towards the full and effective implementation of the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century";

(*c*) To take all measures to empower women and strengthen their economic independence, and to protect and promote the full enjoyment of all human rights and fundamental freedoms in order to allow women and girls to protect themselves better against violence and, in this regard, to give priority to and promote the full and equal participation in public and political life of women as well as to ensure their full and equal access to education, training, economic opportunity and economic advancement;

(*d*) To include in reports submitted in accordance with the provisions of relevant United Nations human rights instruments data and information disaggregated by sex, age and other factors, where appropriate, pertaining to violence against women and girls, including measures to eliminate traditional or customary practices harmful to women and girls, and other measures taken to implement the Declaration on the Elimination of Violence against Women, the Platform for Action adopted by the Fourth World Conference on Women and other instruments relevant to the elimination of violence against women and girls;

(*e*) To condemn violence against women and girls and not to invoke custom, tradition or practices in the name of religion or culture to avoid their obligations to eliminate such violence;

(*f*) To address the specific circumstances facing girls and young women in relation to violence, especially sexual violence, including its immediate and long-term consequences;

(*g*) To address the specific circumstances facing indigenous women and girls in relation to gender-based violence, especially sexual violence, arising from multiple, intersecting and aggravated forms of discrimination, including racism, paying particular attention to the structural causes of violence;

(*h*) To ensure that marital rape is not excluded from general criminal provisions, and to investigate these acts and to prosecute and punish the perpetrators;

(*i*) To disseminate widely existing national guidelines for medico-legal care for victims of sexual violence;

(*j*) To intensify efforts to develop and/or utilize legislative, educational, social and other measures aimed at the prevention of violence against women and girls and to ensure their full and equal access to justice, including the adoption and implementation of laws, dissemination of information, active involvement with community-based players, and training of legal, judicial and health personnel on gender-based violence and related issues, and, where possible, through developing and strengthening support services;

(*k*) To enact and, where necessary, reinforce or amend domestic legislation, including measures to enhance the protection of victims, to investigate, prosecute, punish and redress the wrongs done to women and girls subjected to any form of violence, whether in the home, the workplace, the community or society, in custody or in situations of armed conflict, to ensure that such legislation conforms with relevant international human rights instruments and international humanitarian law, to abolish existing laws, regulations, customs and practices which constitute discrimination against women, to remove gender bias in the administration of justice, and to take action to investigate and punish persons who perpetrate acts of violence against women and girls;

(*l*) To formulate, implement and promote, at all appropriate levels, plans of action, including time-bound measurable targets where appropriate, to eliminate violence against women and girls, guided by, inter alia, the Declaration on the Elimination of Violence against Women, as well as relevant regional instruments pertaining to the elimination of violence against women and girls;

(*m*) To consider establishing appropriate national mechanisms for monitoring and evaluating implementation of measures taken to eliminate violence against women and girls, including through the use of national indicators, and to mainstream a gender perspective in budget policies and processes at all levels;

(*n*) To support initiatives undertaken by women's organizations and non-governmental organizations on the elimination of violence against women and girls and to establish and/or strengthen, at the national level, collaborative relationships with relevant non-governmental and community-based organizations, and with public and private sector institutions, aimed at the development and effective implementation of provisions and policies relating to violence against women and girls, including in the area of support services for victims;

(*o*) To encourage and support men and boys to take an active part in the prevention and elimination of all forms of violence, and especially gender-based violence, including in the context of HIV/AIDS, and to increase awareness of men's and boys' responsibility in ending the cycle of violence, inter alia, through the promotion of attitudinal and behavioural change, integrated education and training which prioritize the safety of women and children, prosecution and rehabilitation of perpetrators, and support for survivors;

(*p*) To examine the impact of, and take measures to address, gender role stereotypes that contribute to the prevalence of violence against women and girls, including in cooperation with the United Nations system, regional organizations, civil society, the media and other relevant actors;

(*q*) To develop and/or enhance, including through funding, training programmes for judicial, legal, medical, social, educational, police, correctional service, military, peacekeeping, humanitarian relief and immigration personnel, in order to prevent the abuse of power leading to violence against women and girls and to sensitize such personnel to the nature of gender-based acts and threats of violence;

(*r*) To provide gender-sensitive training to all actors, as appropriate, in peacekeeping missions in dealing with female victims of violence, including sexual violence and, in this regard, acknowledges the important role of peace support operations personnel in eliminating violence against women and girls, and calls upon States to promote, and relevant agencies of the United Nations system and regional organizations to ensure full and effective implementation of the Ten Rules Code of Personal Conduct for Blue Helmets;

18. *Strongly condemns* violence against women and girls committed in situations of armed conflict, such as murder, rape, including widespread and systematic rape, sexual slavery and forced pregnancy, and calls for effective responses to these violations of human rights and international humanitarian law;

19. *Takes note* of work already undertaken to implement Security Council resolution 1325 (2000) on women, peace and security, and strongly urges continued efforts towards its full implementation;

20. *Acknowledges* the inclusion of gender-related crimes in the Rome Statute of the International Criminal Court and in the Elements of Crimes, adopted by the Assembly of State Parties to the Rome Statute in September 2002, and urges States to ratify or accede to the Rome Statute, which entered into force on 1 July 2002;

21. *Stresses* the importance of, and critical need for, concerted efforts to eliminate impunity for violence against women and girls in situations of armed conflict, including by prosecuting gender-related crimes and crimes of sexual violence, by providing protective measures, counselling and other appropriate assistance to victims and witnesses, by integrating a gender perspective into all efforts to eliminate impunity, including in international, internationally supported and domestic courts and other tribunals, commissions of inquiry and commissions for achieving truth and reconciliation, and invites the Special Rapporteur to report, as appropriate, on these mechanisms;

22. *Urges* States to mainstream a gender perspective into all policies and programmes, including national immigration and asylum policies, regulations and practices, as appropriate, in order to promote and protect the rights of all women and girls, including the consideration of steps to recognize gender-related persecution and violence when assessing grounds for granting refugee status and asylum;

23. *Also urges* States and the United Nations system to give attention to, and encourages greater international cooperation in systematic research and the collection, analysis and dissemination of data, including data disaggregated by sex, age and other relevant information, on the extent, nature and consequences of violence against women and girls, and on the impact and effectiveness of policies and programmes for combating this violence;

24. *Calls upon* all relevant United Nations bodies, States, the Special Rapporteur, as well as relevant non-governmental organizations, to cooperate closely in the preparation of the Secretary-General's in-depth study on all forms of violence against women;

25. *Encourages* the Special Rapporteur to respond effectively to reliable information that comes before her and requests all Governments to cooperate with and assist the Special Rapporteur in the performance of her mandated tasks and duties, to supply all information requested, including with regard to implementation of her recommendations, and to respond to the Special Rapporteur's visits and communications;

26. *Bears in mind* the need to develop, with full participation of all Member States, an international consensus on indicators and ways to measure violence against women, calls on the Special Rapporteur to recommend proposals for indicators on violence against women and on measures taken to eliminate violence against women, for the use by, inter alia, Member States;

27. *Invites* the Special Rapporteur, with a view to promoting greater efficiency and effectiveness, as well as enhancing her access to the information necessary to fulfil her duties, to continue to cooperate with other special procedures of the Commission, regional intergovernmental organizations and any of their mechanisms engaged in the promotion of human rights of women and girls, including, where appropriate, undertaking joint missions, joint reports, urgent appeals and communications;

28. *Requests* special rapporteurs responsible for various human rights questions, United Nations organs and bodies, specialized agencies and intergovernmental organizations, and encourages the human rights treaty bodies, to continue to give consideration to violence against women and girls within their respective mandates, to cooperate with and assist the Special Rapporteur in the performance of her mandated tasks and duties and, in particular, to respond to her requests for information on violence against women, its causes and consequences;

29. *Renews its request* to the Secretary-General to continue to provide the Special Rapporteur with all necessary assistance, in particular the staff and resources required to perform all mandated functions, especially in carrying out and following up on missions undertaken either separately or jointly with other special rapporteurs and working groups, and adequate assistance for periodic consultations with the Committee on the Elimination of Discrimination against Women and all other treaty bodies;

30. *Requests* the Secretary-General to ensure that the reports of the Special Rapporteur are brought to the attention of the Commission on the Status of Women at its fiftieth session, the General Assembly, as well as to the attention of the Committee on the Elimination of Discrimination against Women, and requests the Special Rapporteur to present an oral report to the General Assembly at its sixtieth session;

31. *Decides* to continue consideration of the question as a matter of high priority at its sixty-second session.

57th meeting
19 April 2005
[Adopted without a vote. See chap. XII.]

2005/42. Integrating the human rights of women throughout the United Nations system

The Commission on Human Rights,

Reaffirming that the equal rights of women and men are enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments,

Recalling all previous resolutions on this subject, including General Assembly resolution 59/164 of 20 December 2004,

Recalling also the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), which affirms that the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights and calls for action to integrate the equal status and human rights of women into the mainstream of United Nations activity system-wide,

Welcoming the increased integration of a gender perspective into the work of all entities of the United Nations and the major United Nations conferences, special sessions and summits and their follow-up processes,

Reaffirming the Beijing Declaration and the Platform for Action adopted in September 1995 by the Fourth World Conference on Women (A/CONF.177/20/Rev.1, chap. I) and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century", which called upon the United Nations High Commissioner for Human Rights as well as all relevant organs, bodies and agencies of the United Nations system to give full, equal and sustained attention to the enjoyment of human rights of women in the exercise of their respective mandates,

Welcoming the commitment of the Commission on the Status of Women at its forty-ninth session to undertake further action to examine the full and accelerated implementation of the Beijing Declaration and Platform for Action and of the outcome document of the twenty-third special session of the General Assembly, emphasizing that their full and effective implementation is essential for the attainment of the internationally agreed upon development goals, including those contained in the United Nations Millennium Declaration,

Recalling the United Nations Millennium Declaration, in particular its call for the promotion of gender equality and the empowerment of women as effective ways to combat poverty, hunger and disease and to stimulate development that is truly sustainable, and bearing in mind the review and appraisal process of the Millennium Declaration that will take place in September 2005,

Acknowledging the need for a comprehensive and integrated approach to the promotion and protection of the human rights of women and the need to integrate the gender perspective in a more systemic way into all aspects of the work of the United Nations system, including the treaty bodies, the Commission on Human Rights, the Sub-Commission on the Promotion and Protection of Human Rights and all other subsidiary mechanisms,

Welcoming the review of the integration of women's enjoyment of human rights and the gender perspective in the reports of special procedures of the Commission between 1996 and 2003 undertaken by the Division for the Advancement of Women in cooperation with the Office of the United Nations High Commissioner for Human Rights,

Reaffirming the need to implement fully international humanitarian and human rights law in order to protect fully the human rights of women and girls,

Encouraging the process under way by the Committee on Economic, Social and Cultural Rights to develop a general comment on article 3 of the International Covenant on Economic, Social and Cultural Rights regarding the equal right of women and men to the enjoyment of all economic, social and cultural rights set forth in the Covenant,

Emphasizing the pivotal role of the Commission on the Status of Women in promoting equality between women and men and welcoming its agreed conclusions over the years on the human rights of women and on the other critical areas of concern of the Platform for Action,

Recognizing the importance of the participation of women at all levels of decision-making, throughout the United Nations system for the achievement of gender equality and the realization of the human rights of women,

Reaffirming the important role that women's groups and non-governmental organizations play in promoting and protecting the human rights of women,

1. *Welcomes* the reports of the Secretary-General (E/CN.4/2004/64, E/CN.4/2005/68 and E/CN.4/2005/69-E/CN.6/2005/6);

2. *Emphasizes* that the goal of mainstreaming a gender perspective is to achieve gender equality and that this includes ensuring that all United Nations activities, including United Nations conferences, special sessions and summits, integrate the human rights of women;

3. *Recognizes* the importance of examining the intersection of multiple forms of discrimination and conditions of disadvantage, including their root causes, from a gender perspective, and their impact on the advancement of women and the enjoyment by women of their human rights, in order to develop and implement strategies, policies and programmes aimed at the elimination of all forms of discrimination against women and to increase the role that women play in the design, implementation and monitoring of gender-sensitive anti-discrimination policies;

4. *Takes note with satisfaction* that the Economic and Social Council devoted the coordination segment of its substantive session of 2004 to the review and appraisal of the system-wide implementation of agreed conclusions 1997/2 of 18 July 1997 (see A/52/3/Rev.1, chap. IV, para. 4) on mainstreaming the gender perspective into all policies and programmes of the United Nations system, and welcomes the report of the Secretary-General (E/2004/59) to that session, and resolution 2004/4 adopted by the Council on 7 July 2004, which requests all entities of the United Nations system to enhance the effectiveness of gender mainstreaming and to promote cooperation and coordination;

5. *Invites* the Economic and Social Council to continue to give attention to the implementation of its agreed conclusions 1998/2 of 28 July 1998 (see A/53/3 and Corr.1, chap. IV, para. 3), related to the promotion of an integrated and coordinated implementation of the Vienna Declaration and Programme of Action and follow-up to major United Nations conferences and summits in the economic, social and related fields, in particular the explicit incorporation of a gender perspective by the Commission when establishing or renewing mandates related to human rights;

6. *Stresses* the need for integrating a gender perspective into the outcome of future United Nations conferences, special sessions and summits, including the second phase of the World Summit on the Information Society, to be held in Tunis in November 2005;

7. *Welcomes* the continued cooperation between the Commission on the Status of Women and the Commission on Human Rights, including through joint bureau meetings and the participation of the Chair of the Commission on the Status of Women in the work of the Commission on Human Rights and, similarly, the participation of the Chair of the Commission on Human Rights in the sessions of the Commission on the Status of Women, and encourages the continuation of this reciprocal collaboration;

8. *Encourages* the continued commitment of the United Nations High Commissioner for Human Rights to integrating the issue of women's enjoyment of human rights throughout the United Nations system, including through continued cooperation with the Special Adviser on

Gender Issues and Advancement of Women and the Division for the Advancement of Women, and also encourages the High Commissioner to maintain her commitment to raise awareness and promote the universal ratification and implementation of the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol;

9. *Welcomes* the submission of reports by specialized agencies, at the invitation of the Committee on the Elimination of Discrimination against Women, on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women in areas falling within the scope of their activities and the contribution of non-governmental organizations to the work of the Committee;

10. *Encourages* all entities of the United Nations system, as well as Governments and intergovernmental and non-governmental organizations, in particular women's organizations, as appropriate, to pay systematic, increased and sustained attention to the recommendations of the Committee, in order to ensure that the recommendations are better utilized in their respective work, and encourages all relevant entities of the United Nations system to continue to assist States parties, upon the request of those States, in implementing the Convention;

11. *Welcomes* the cooperation and coordination between the Division for the Advancement of Women and the Office of the United Nations High Commissioner for Human Rights aimed at mainstreaming the human rights of women, including through their joint work plan, and, in this sense, encourages United Nations bodies and agencies to increase cooperation with other organizations in developing activities to address, within their respective mandates, violations of the human rights of women and to promote the full enjoyment of all human rights and fundamental freedoms by women;

12. *Also welcomes* the report of the Secretary-General on the joint work plan for the year 2005 of the Division for the Advancement of Women and the Office of the High Commissioner (E/CN.4/2005/69-E/CN.6/2005/6), and in particular the continued cooperation to strengthen attention to the human rights of women and the mainstreaming of gender perspectives in all human rights activities in the following major areas: support for human rights treaty bodies; support for intergovernmental bodies and special procedures; technical cooperation; advisory services and meetings; awareness-raising and outreach; and inter-agency cooperation;

13. *Encourages* the Secretary-General to ensure implementation of the joint work plan, to continue to elaborate this plan on an annual basis, reflecting all aspects of work under way and the lessons learned, to identify obstacles/impediments and areas for further collaboration, and to submit them to the Commission on Human Rights and to the Commission on the Status of Women on a regular basis;

14. *Urges* the relevant organs, bodies and agencies of the United Nations system to bear in mind, including in the recruitment of staff, the need for expertise in and regular training on gender equality and gender mainstreaming in all activities of the United Nations for all United Nations personnel, including conflict prevention, peacekeeping and peace-building operations and humanitarian and human rights missions;

15. *Encourages* Member States to promote gender balance by, inter alia, regularly nominating more women candidates for election to the human rights treaty bodies and for appointment to United Nations bodies, including international courts and tribunals, the

specialized agencies and other organs, and calls upon all relevant actors to implement General Assembly resolution 59/164 on improvement of the status of women in the United Nations system;

16. *Welcomes* the efforts made by some special procedures and other human rights mechanisms and requests all special procedures and other human rights mechanisms of the Commission on Human Rights and the Sub-Commission for the Promotion and Protection of Human Rights regularly and systematically to integrate a gender perspective into the implementation of their mandates and to include in their reports information on and qualitative analysis of human rights of women and girls, and encourages the strengthening of cooperation and coordination between these procedures and mechanisms;

17. *Encourages* the efforts of the treaty bodies to mainstream the human rights of women into their work, in particular, in their concluding observations and in the development of general comments and recommendations;

18. *Reiterates* the need for using gender-inclusive language in the formulation, interpretation and application of human rights instruments, as well as in reports, resolutions and/or decisions of the Commission, the Sub-Commission and the various human rights mechanisms, and requests the Office of the High Commissioner to utilize gender-inclusive language in the preparation of all of its communications, reports and publications, and to work with the United Nations conference services to ensure gender-inclusive language and interpretation in the proceedings of the Office;

19. *Encourages* all entities charged with the promotion and protection of human rights, especially United Nations human rights bodies and mechanisms, to identify, collect and use sex-disaggregated data and gender-specific information in their activities and to use the tools at their disposal for gender analysis in monitoring and reporting;

20. *Recalls* Security Council resolution 1325 (2000) of 31 October 2000 on women and peace and security, which, inter alia, calls on actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia, measures that ensure the protection of and respect for the human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary, and welcomes the report of the Secretary-General on women, peace and security (S/2004/814);

21. *Recognizes* the important role of women in the prevention and resolution of conflicts and in peace-building, the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security and the need to increase their role in decision-making with regard to conflict prevention and resolution, and urges the United Nations system and Governments to make further efforts to ensure and support the full participation of women at all levels of decision-making and implementation in development activities and peace processes, including conflict prevention and resolution, post-conflict reconstruction, peacemaking, peacekeeping and peace-building, as well as through the integration of a gender perspective into those United Nations processes;

22. *Welcomes* the 2004 review of the 1999 Inter-Agency Standing Committee policy statement for the integration of a gender perspective in humanitarian assistance;

23. *Requests* the Secretary-General to report, at its sixty-third session, on the implementation of the present resolution including analysing the degree to which the promotion and protection of human rights of women are being integrated into the United Nations system, the work of the Commission and its subsidiary bodies, identifying obstacles and challenges to implementation of the resolution, to make concrete, comprehensive recommendations for action by States and/or by the United Nations system and to bring the report to the attention of the relevant organs, bodies and agencies of the United Nations system, including all human rights bodies;

24. *Encourages* States to cooperate with and support the United Nations system in its efforts to integrate the human rights of women and to take into full consideration the content of the present resolution;

25. *Decides* to integrate a gender perspective into all of its agenda items;

26. *Also decides* to continue its consideration of the question at its sixty-third session.

57th meeting
19 April 2005
[Adopted without a vote. See chap. XII.]

2005/43. Abduction of children in Africa

The Commission on Human Rights,

Recalling its resolution 2004/47 of 20 April 2004,

Recalling also the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples' Rights and the African Charter on the Rights and Welfare of the Child,

Recalling further the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography,

Recalling the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,

Recalling also the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (A/CONF.157/23) in June 1993 and the United Nations Millennium Declaration, as well as the special session of the General Assembly on children, which, inter alia, called for the protection of children, particularly those in difficult circumstances, *Recalling* the obligation to respect and to ensure respect for international humanitarian law, including the Geneva Conventions, of 12 August 1949, relative to the Treatment of Prisoners of War and to the Protection of Civilian Persons in Time of War, as well as, for the States parties, the two Protocols Additional of 8 June 1977,

Bearing in mind Security Council resolutions 1379 (2001) of 20 November 2001, 1460 (2003) of 30 January 2003 and 1539 (2004) of 22 April 2004 on children in armed conflict,

Taking into account its own resolutions on the rights of the child,

Welcoming with satisfaction the progress report of the Secretary-General on the study on the question of violence against children (E/CN.4/2005/75),

Also welcoming the entry into force, on 25 December 2003, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,

Expressing its appreciation to those African countries that have established formal and informal mechanisms to ensure greater protection of children, including measures to combat and eliminate abduction of children,

1. *Condemns* the practice of abduction of children for various purposes, inter alia, for involvement in armed forces or armed groups, for participation in hostilities, for sexual exploitation and forced labour;

2. *Also condemns* the abduction of children from camps of refugees and internally displaced persons by armed forces and armed groups, and their subjection of children to participation in fighting, torture, killing and rape as victims and as perpetrators;

3. *Demands* the immediate demobilization and disarmament, reintegration and, where applicable, repatriation of all child soldiers, particularly girls, who have been recruited or used in armed conflicts in contravention of international law;

4. *Calls for* the immediate and unconditional release and safe return of all abducted children to their families, extended families and communities;

5. *Calls upon* African States:

(*a*) To pay particular attention to the protection of refugee and internally displaced children, especially unaccompanied and separated children, who are exposed to the risk of being abducted or becoming involved in armed conflicts;

(*b*) To take extra measures to protect refugee children and internally displaced children, particularly girls, from being abducted;

(*c*) To take adequate measures to prevent the abduction and recruitment of children by armed forces and armed groups and their participation in hostilities, through, inter alia, the adoption of legal measures to prohibit and criminalize such practices and practical measures such as prompt and comprehensive birth registration of all children (including refugee and internally displaced children), documentation of children, preservation of family unity and its facilitation in case of separation, access to education, health care, vocational training and employment;

6. *Encourages* all African States to integrate the rights of the child into all peace processes, peace agreements and post-conflict recovery and reconstruction phases;

7. *Urges* all African States that have not yet done so to consider ratifying the African Charter on the Rights and Welfare of the Child, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography;

8. *Welcomes* the progress achieved in the eradication of abduction of children by national mechanisms in certain African States, and encourages other States that have not yet done so to consider establishing such mechanisms;

9. *Requests* African States, in cooperation with the relevant United Nations agencies, to provide the victims and their families with the necessary assistance and to support sustainable rehabilitation and reintegration programmes for abducted children, including the provision of psychological assistance, basic education and vocational training, taking into account the rights and special needs of abducted girl children;

10. *Requests* the international community, including donor countries and relevant United Nations bodies, to complement and supplement the efforts of African States and African regional mechanisms in providing the necessary assistance, including technical assistance, in order, first, to devise with the participation of children, their families and communities appropriate programmes to combat abduction of children and to protect them, including refugee and internally displaced children, especially unaccompanied and separated children, who are exposed to the risk of being abducted, and, second, to develop and implement programmes for the reintegration, including rehabilitation, of children in the peace process and in the post-conflict recovery and reconstruction phase;

11. *Encourages* all States, and particularly their agencies responsible for internal security, as well as the International Criminal Police Organization, to cooperate and take steps to prevent cross-border abductions, and to exchange information with the aim of preventing the abduction of children in Africa;

12. *Calls upon* Member States to put an end to impunity and to take appropriate steps to identify those responsible for child abductions in Africa and bring them to justice;

13. *Encourages* the independent expert to direct an in-depth study of the question of violence against children to complete his study on the protection of children against all forms of physical and mental violence, including child abduction in Africa;

14. *Requests* the Office of the United Nations High Commissioner for Human Rights, working with Member States, the International Labour Organization, the United Nations Children's Fund and other relevant United Nations agencies, international organizations and non-governmental organizations, to undertake a comprehensive assessment of the situation of the abduction of children throughout Africa through the organization of subregional consultations,

which will provide a framework for gathering research, expertise and information from each subregion, for sensitizing political actors and for networking among public authorities and civil society, including non-governmental organizations, and to report its findings to the Commission at its sixty-second session;

15. *Urges* States to submit information, progress reports and observations on the implementation of the present resolution, and calls on the relevant international organizations to submit reports on this issue to the Office of the High Commissioner;

16. *Urges* those States that have established national mechanisms to combat the abduction of children and to report on the progress of those mechanisms to the Office of the High Commissioner;

17. *Decides* to continue its consideration of this question at its sixty-second session under the same agenda item.

57th meeting
19 April 2005
[Adopted without a vote. See chap. XIII.]

2005/44. Rights of the child

The Commission on Human Rights,

Emphasizing the importance of the Convention on the Rights of the Child and that its provisions and other relevant human rights instruments must constitute the standard in the promotion and protection of the rights of the child, and bearing in mind the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, and the Optional Protocol to the Convention on the involvement of children in armed conflict,

Reaffirming that the best interests of the child shall be a primary consideration in all actions concerning children,

Reaffirming also the United Nations Millennium Declaration, the Vienna Declaration and Programme of Action (A/CONF.157/23), and the outcome document of the twenty-seventh special session of the General Assembly on children entitled "A world fit for children" and the commitments contained therein,

Recalling its previous resolutions on the rights of the child, the most recent of which is resolution 2004/48 of 20 April 2004, and taking note of General Assembly resolution 59/261 of 23 December 2004,

Taking note with appreciation of the reports of the Secretary-General on the status of the Convention on the Rights of the Child (E/CN.4/2005/73), of the Special Rapporteur on the right to education (E/CN.4/2005/50), of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2005/78 and Corr.1 and Add.1-4), the report of the

Special Representative of the Secretary-General for children and armed conflict (E/CN.4/2005/77), and the progress report of the Secretary-General on the study on the question of violence against children (E/CN.4/2005/75),

Welcoming the work of the Committee on the Rights of the Child and taking note of the conclusions of the day of general discussion held on 17 September 2004 at its thirty-seventh session on implementing child rights in early childhood (see CRC/C/143, chap. VII),

Profoundly concerned that the situation of children in many parts of the world remains critical as a result of the persistence of poverty, social inequality, inadequate social and economic conditions in an increasingly globalized economic environment, pandemics, in particular HIV/AIDS, malaria, tuberculosis, natural disasters, armed conflicts, displacement, exploitation, illiteracy, hunger, intolerance, discrimination, gender inequality, discrimination on the basis of disability and inadequate legal protection, and convinced that urgent and effective national and international action is called for,

Recognizing that environmental damage has potentially negative effects on children and their enjoyment of their lives, health and satisfactory standard of living,

Underlining the need for mainstreaming a gender perspective and recognizing the child as a rights holder in all policies and programmes relating to children,

Concerned that, in conflict situations, children continue to be victims and deliberate targets of attacks with consequences that are often irreversible for their physical and emotional integrity,

Recognizing that the family is the basic unit of society and as such should be strengthened; that it is entitled to receive comprehensive protection and support; that the primary responsibility for the protection, upbringing and development of children rests with the family; that all institutions of society should respect children's rights and secure their well-being and render appropriate assistance to parents, families, legal guardians and other caregivers so that children can grow and develop in a safe and stable environment and in an atmosphere of happiness, love and understanding, bearing in mind that in different cultural, social and political systems, various forms of family exist,

Reaffirming the interrelatedness of all human rights and the necessity of taking into account the universality, indivisibility, interdependence and interrelatedness of civil, political, economic, social and cultural rights, including the right to development, to promote and protect the rights of the child,

I. IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD AND OTHER INSTRUMENTS

1. *Reaffirms* that the best interests of the child shall be a primary consideration in all actions concerning children, and reaffirms also the general principles of, inter alia, non-discrimination, participation, and survival and development;

2. *Urges once again* the States that have not yet done so to consider signing and ratifying or acceding to the Convention on the Rights of the Child as a matter of priority and, concerned at the great number of reservations to the Convention, urges States parties to withdraw reservations incompatible with the object and purpose of the Convention and to consider reviewing other reservations with a view to withdrawing them;

3. *Urges* States that have not yet done so to consider signing and ratifying or acceding to the Optional Protocols to the Convention on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography;

4. *Calls upon* States parties to implement the Convention and its Optional Protocols fully and in accordance with the best interests of the child by, inter alia, putting in place effective national legislation and policies, and to comply in a timely manner with their reporting obligations under the Convention and the Optional Protocols thereto, in accordance with the guidelines elaborated by the Committee, as well as to take into account the recommendations made by the Committee in the implementation of the provisions of the Convention;

5. *Also calls upon* States parties to strengthen relevant governmental structures for children, including, where appropriate, ministers in charge of child issues and independent commissioners for the rights of the child, and ensure adequate and systematic training in the rights of the child for professional groups working with and for children;

6. *Encourages* all States to strengthen their national statistical capacities and, as far as possible, to use statistics disaggregated by, inter alia, age, gender and other relevant factors that may lead to disparities, including in the area of juvenile justice and on children in detention, and other statistical indicators at the national, subregional, regional and international levels to develop and assess social policies and programmes so that economic and social resources are used efficiently and effectively for the full realization of the rights of the child;

7. *Calls upon* all States to end impunity for perpetrators of crimes committed against children, recognizing in this regard the contribution of the establishment of the International Criminal Court as a way to prevent violations of human rights and international humanitarian law, in particular when children are victims of serious crimes, including the crime of genocide, crimes against humanity and war crimes, and to bring perpetrators of such crimes to justice, and not to grant amnesties for these crimes and to strengthen international cooperation towards the goal of ending impunity;

8. *Notes* the ongoing efforts of the Committee to reform its working methods so as to consider reports of States parties in a timely manner;

9. *Requests* the Office of the United Nations High Commissioner for Human Rights, United Nations mechanisms, including human rights mechanisms, and all relevant organs of the United Nations system, to incorporate a strong child-rights perspective throughout all activities in the fulfilment of their mandates, as well as to ensure that their staff is trained in child protection matters, and calls upon States to cooperate closely with them;

II. PROTECTING AND PROMOTING THE RIGHTS OF THE CHILD AND NON-DISCRIMINATION AGAINST CHILDREN, INCLUDING CHILDREN IN PARTICULARLY DIFFICULT SITUATIONS

Non-discrimination

10. *Calls upon* all States to ensure that children are entitled to their civil, political, economic, social and cultural rights without discrimination of any kind;

11. *Notes with concern* the large number of children, particularly girls, children belonging to national, ethnic, religious and linguistic minorities, migrant children, refugee children and children of indigenous origin among the victims of racism, racial discrimination, xenophobia and related intolerance, stresses the need to incorporate special measures, in accordance with the principle of the best interests of the child and respect for his or her views, in programmes to combat these practices, and calls upon States to provide special support and ensure equal access to services for those children;

Freedom from violence

12. *Requests* the submission of the final report of the Secretary-General's study on the question of violence against children to the Commission;

13. *Also requests* all relevant human rights mechanisms, in particular special rapporteurs and working groups, within their mandates, to pay attention to the special situation of violence against children, reflecting their experience in the field;

14. *Calls upon* all States:

(*a*) To take all appropriate measures to prevent, and to protect children from, all forms of violence, including physical, mental and sexual violence, child abuse, domestic violence and neglect, and abuse by the police, other law enforcement authorities and employees and officials in detention centres or welfare institutions, including orphanages;

(*b*) To investigate and submit cases of torture and other forms of violence against children to the competent authorities for the purpose of prosecution and to impose appropriate disciplinary or penal sanctions against those responsible for such practices;

15. *Urges* States:

(*a*) To take measures to protect students from violence, injury or abuse, including sexual abuse and intimidation or maltreatment in schools, to establish complaint mechanisms that are age-appropriate and accessible to children and to undertake thorough and prompt investigations of all acts of violence and discrimination;

(*b*) To take measures to eliminate the use of corporal punishment in schools;

Identity, family relations and birth registration

16. *Urges* all States to continue to intensify efforts in order to ensure the implementation of the right of the child, irrespective of the child's status, to birth registration, preservation of identity, including nationality, and family relations, as recognized by law;

(*a*) Providing, at a minimal cost, simplified, expeditious, effective procedures for birth registration;

(*b*) Raising awareness at the national, regional and local levels, whenever necessary, of the importance of the birth registration of all children, irrespective of their status, immediately after birth;

(*c*) Ensuring that a child shall not be separated from his or her parents against their will, except when consistent with the Convention on the Rights of the Child;

(*d*) Guaranteeing, to the extent consistent with each State's obligations, the right of a child whose parents reside in different States to maintain on a regular basis, except if it is contrary to the child's best interests, personal relations and direct contacts with both parents by providing means of access and visitation in both States and by respecting the principle that both parents have common responsibilities for the upbringing and development of their children;

(*e*) Where alternative care is necessary, promoting family and community-based care in preference to placement in institutions;

(*f*) Addressing cases of international abduction of children, bearing in mind that the best interest of the child shall be a primary consideration, and encourages States to engage in multilateral and bilateral cooperation to ensure, inter alia, the return of the child to the country where he or she resided immediately before the removal or retention and, in this respect, to pay particular attention to cases of international abduction of children by one of their parents or other relatives;

(*g*) Establishing policy, legislation and effective supervision for the protection of children involved in intercountry adoption, bearing in mind the best interest of the child;

(*h*) Taking all necessary measures to prevent and combat illegal adoptions;

(*i*) Where a child is illegally deprived of some or all of the elements of his or her identity, providing appropriate assistance and protection with a view to re-establishing speedily his or her identity;

(*j*) Taking all appropriate measures, especially educational measures, and promoting further the responsibility of both parents in the education, development and raising of children;

17. *Calls upon* States to take all necessary measures to address the problem of children growing up without parents, in particular orphaned children and children who are victims of family and social violence, neglect and abuse, and recognizes the need for guidelines for the protection and alternative care of children without parental care;

Poverty

18. *Calls upon* States and the international community to cooperate, support and participate in the global efforts for poverty eradication at the global, regional and country levels, to intensify efforts so that all the development and poverty reduction goals, as set out in the United Nations Millennium Declaration, are realized within their time framework, and reaffirms that investments in children and the realization of their rights contribute to their social and economic development, and are among the most effective ways to eradicate poverty;

Health

19. *Calls upon* all States:

(*a*) To ensure the enjoyment of the highest attainable standard of physical and mental health of all children without discrimination, to develop sustainable health systems and social services, to ensure access to such systems and services without discrimination, and to pay particular attention to adequate food and nutrition to prevent disease and malnutrition, to prenatal and post-natal health care, to special needs of adolescents, to reproductive and sexual health and to threats from substance abuse and violence;

(*b*) To give support and rehabilitation to children and their families affected by HIV/AIDS and to involve children and their caregivers, as well as the private sector, to ensure the effective prevention of HIV infections through correct information and access to voluntary and confidential care, reproductive health care and education, treatment and testing, including pharmaceutical products and medical technologies, affordable to all, giving due importance to the prevention of mother-to-child transmission of the virus;

Education

20. *Calls upon* all States:

(*a*) To recognize the right to education on the basis of equal opportunity by making primary education available, free and compulsory for all children, by ensuring that all children, particularly girls, children in need of special protection, children with disabilities, indigenous children, children belonging to minorities and children of different ethnic origins, have access without discrimination to education of good quality, as well as making secondary education generally available and accessible for all, in particular by the progressive introduction of free education, bearing in mind that special measures to ensure equal access, including affirmative action, contribute to achieving equal opportunity and combating exclusion;

(*b*) To design and implement programmes to provide social services and support to pregnant adolescents and adolescent mothers, in particular to enable them to continue and complete their education;

(*c*) To take all appropriate measures to prevent racism and discriminatory and xenophobic attitudes and behaviour through education, keeping in mind the important role that children play in changing these practices;

(*d*) To ensure that children, from an early age, benefit from education programmes, materials and activities that develop respect for human rights and reflect fully the values of peace, non-violence against oneself and others, tolerance and gender equality;

(*e*) To harness the rapidly evolving information and communication technologies to support education at an affordable cost, including open and distance education, while reducing inequality in access and quality;

(*f*) To enable children, including adolescents, to exercise their right to express their views freely, the views of the child being given due weight in accordance with age and maturity of the child;

The girl child

21. *Calls upon* all States to take all necessary measures, including legal reforms where appropriate:

(*a*) To ensure the full and equal enjoyment by girls of all human rights and fundamental freedoms, to take effective actions against violations of those rights and freedoms, and to base programmes and policies on the rights of the child, taking into account the special situation of girls;

(*b*) To eliminate all forms of discrimination and violence against girls, including female infanticide and prenatal sex selection, rape, sexual abuse and harmful traditional or customary practices, including female genital mutilation, son preference, marriages without free and full consent of the intending spouses, early marriages and forced sterilization, including addressing their root causes, by enacting and enforcing legislation and, where appropriate, formulating comprehensive, multidisciplinary and coordinated national plans, programmes or strategies protecting girls;

Children with disabilities

22. *Calls upon* all States to take necessary measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by children with disabilities in both the public and private spheres, including access to good-quality education and health care and protection from violence, abuse and neglect and to develop and, where it already exists, to enforce legislation protecting them against discrimination to ensure their dignity, promote their self-reliance and facilitate their active participation and integration in the community, taking into account the particularly difficult situation of children with disabilities living in poverty;

23. *Encourages* the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities to consider in its deliberations children with disabilities;

Migrant children

24. *Calls upon* all States to ensure, for migrant children, the enjoyment of all human rights as well as access to health care, social services and education of good quality; States should ensure that migrant children, and especially those who are unaccompanied, in particular victims of violence and exploitation, receive special protection and assistance;

Children working and/or living on the street

25. *Calls upon* all States to prevent violations of the rights of children working and/or living on the street, including discrimination, arbitrary detention and extrajudicial, arbitrary and summary execution, torture, all kinds of violence and exploitation, and to bring the perpetrators to justice, to adopt and implement policies for the protection, social and psychosocial rehabilitation and reintegration of these children, and to adopt economic, social and educational strategies to address the problems of children working and/or living on the street;

Refugee and internally displaced children

26. *Calls upon* all States to protect refugee, asylum-seeking and internally displaced children, in particular those who are unaccompanied, who are particularly exposed to risks in connection with armed conflict and post-conflict situations, such as recruitment, sexual violence and exploitation, to pay particular attention to programmes for voluntary repatriation and, wherever possible, local integration and resettlement, to give priority to family tracing and reunification and, where appropriate, to cooperate with international humanitarian and refugee organizations;

Children alleged to have or recognized as having infringed penal law

27. *Calls upon* all States:

(*a*) In particular, States in which the death penalty has not been abolished, to comply with their obligations as assumed under relevant provisions of international human rights instruments, particularly articles 37 and 40 of the Convention on the Rights of the Child and articles 6 and 14 of the International Covenant on Civil and Political Rights, keeping in mind the safeguards guaranteeing protection of the rights of those facing the death penalty and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989, and calls upon those States to abolish by law as soon as possible the death penalty for those aged under 18 at the time of the commission of the offence;

(*b*) To protect children deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment;

(*c*) To ensure compliance with the principle that depriving children of their liberty should be used only as a measure of last resort and for the shortest appropriate time, in particular before trial, recalling the prohibition of life imprisonment without possibility of release;

(*d*) To ensure that, if they are arrested, detained or imprisoned, children are provided with adequate legal assistance and that they shall have the right to maintain contact with their family through correspondence and visits, save in exceptional circumstances, and that no child in detention is sentenced to forced labour, corporal punishment, or deprived of access to and provision of health-care services, hygiene and environmental sanitation, education, basic instruction and vocational training, taking into consideration the special needs of children with disabilities in detention;

Child labour

28. *Calls upon* all States to translate into concrete action their commitment to protect children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, and to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency;

29. *Urges* all States that have not yet done so to consider ratifying and implementing the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) and the Convention concerning the Minimum Age for Employment, 1973 (No. 138) of the International Labour Organization, and calls upon States parties to these instruments to implement them fully and to comply in a timely manner with their reporting obligations;

Recovery and social reintegration

30. *Encourages* States to promote actions, including through bilateral and multilateral technical cooperation and financial assistance, for the social reintegration of children in difficult situations, considering, inter alia, views, skills, and capacities that these children have developed in the conditions in which they lived and, where appropriate, with their meaningful participation;

31. *Encourages* all States to promote actions to ensure that children affected by natural disasters are provided with access to basic social services;

III. PREVENTION AND ERADICATION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

32. *Calls upon* all States:

(*a*) To criminalize and effectively penalize all forms of sexual exploitation and sexual abuse of children, including within the family or for commercial purposes, child pornography and child prostitution, child trafficking, child sex tourism, the sale of children and their organs, and the use of the Internet for these purposes, and to take effective measures against the criminalization of children who are victims of exploitation;

(*b*) To take effective measures to ensure prosecution of offenders, whether local or foreign, by the competent national authorities, either in the country where the crime was committed, or in the country of which the victim is a national or a resident, or in the offender's country of origin in accordance with due process of law, and for these purposes, to afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings;

(*c*) To increase cooperation at all levels to prevent and dismantle networks trafficking in children;

(*d*) To consider ratifying or acceding to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(*e*) To address effectively the needs of victims of trafficking, of sale of children, of child prostitution and child pornography, including their safety and protection, physical and psychological recovery and full reintegration into their family and society and bearing in mind the best interest of the child;

(*f*) To combat the existence of a market that encourages such criminal practices against children and factors leading to these practices, including through the adoption and effective application of preventive and enforcement measures targeting customers or individuals who sexually exploit or sexually abuse children, as well as ensuring public awareness;

(*g*) To take the necessary measures to eliminate the sale of children, child prostitution and child pornography by adopting a holistic approach and addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structures, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children;

IV. PROTECTION OF CHILDREN AFFECTED BY ARMED CONFLICT

33. *Reaffirms* the essential role of the General Assembly, the Economic and Social Council and the Commission on Human Rights for the promotion and protection of the rights and welfare of children, including children affected by armed conflict, reaffirms the increasing role played by the Security Council in ensuring protection for children affected by armed conflict, and notes the importance of the debates held by the Security Council on children and armed conflict, recalls Council resolutions 1379 (2001) of 20 November 2001 and 1460 (2003) of 30 January 2003 and takes note of resolution 1539 (2004) of 22 April 2004, and of the undertaking by the Council to give special attention to the protection, welfare and rights of children in armed conflict when taking action aimed at maintaining peace and security, including provisions for the protection of children in the mandates of peacekeeping operations, as well as the inclusion of child protection advisers in these operations;

34. *Recognizes* the inclusion in the Rome Statute of the International Criminal Court (A/CONF.183/9), as a war crime, of crimes involving sexual violence and crimes of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts;

35. *Takes note with appreciation* of the Secretary-General's proposals to establish a comprehensive monitoring, reporting and compliance mechanism in order to obtain systematic, reliable and accurate information on the recruitment and use of children in armed conflict and other grave violations against children, and calls upon States to support this process;

36. *Strongly condemns* any recruitment and use of children in armed conflicts contrary to international law, and urges all parties to armed conflict to end such practice, and all other violations against children, including killing or maiming, rape or other sexual violence, abduction, denial of humanitarian access, attacks against schools and hospitals and the forced displacement of children and their families;

37. *Calls upon* all States to pay special attention to the protection, welfare and rights of girls affected by armed conflict;

38. *Calls upon* States:

(*a*) When ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, to raise the minimum age for voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention, bearing in mind that under the Convention persons under 18 years of age are entitled to special protection, and to adopt safeguards to ensure that such recruitment is not forced or coerced;

(*b*) To take all feasible measures to prevent recruitment and use of children by armed groups, as distinct from the armed forces of a State, including the adoption of legal measures necessary to prohibit and criminalize such practice, and the adoption of measures to prevent re-recruitment, in particular education;

(*c*) To take all feasible measures, in particular educational measures, to ensure the demobilization and effective disarmament of children used in armed conflicts and to implement effective measures for their rehabilitation, physical and psychological recovery and reintegration into society, taking into account the rights and the specific needs of the girl child;

(*d*) To take effective preventive measures against sexual exploitation and abuse by their military and civilian peacekeepers and hold them to account;

39. *Calls upon*:

(*a*) All States and other parties to armed conflict to respect fully international humanitarian law and, in this regard, calls upon States parties to respect fully the provisions of the Geneva Conventions, of 12 August 1949, and the Additional Protocols thereto of 8 June 1977;

(*b*) Armed groups that are distinct from the armed forces of a State not, under any circumstances, to recruit or use in hostilities persons under the age of 18 years;

(*c*) All States and relevant United Nations bodies and agencies and regional organizations to integrate the rights of the child into all activities in conflict and post-conflict situations, to ensure adequate child protection training of their staff and personnel, including through the drafting and dissemination of codes of conduct addressing the issue of sexual exploitation and abuse of children, to ensure that States take effective preventive measures against sexual exploitation and abuse by their military and civilian peacekeepers and hold them to account, and to facilitate the participation of children in the development of strategies in this regard, making sure that there are opportunities for children's voices to be heard and given due weight in accordance with the age and maturity of the child;

(*d*) All States and relevant United Nations bodies to continue to support national and international mine action efforts, including through financial contributions, assistance to victims and social and economic reintegration, mine awareness programmes, mine clearance and child-centred rehabilitation;

40. *Decides*:

(*a*) To request the Secretary-General to ensure the provision of appropriate staff and facilities from the United Nations regular budget for the effective and expeditious performance of the functions of the Committee on the Rights of the Child, special rapporteurs and special representatives of the United Nations system in the implementation of their mandates and, where appropriate, to invite States to continue to make voluntary contributions;

(*b*) To request the Secretary-General to submit to the Commission at its sixty-second session a report on the rights of the child, with information on the status of the Convention on the Rights of the Child and on the problems addressed in the present resolution;

(*c*) To request the Special Rapporteur on the sale of children, child prostitution and child pornography to submit a report to the Commission at its sixty-second session;

(*d*) To continue its consideration of this question at its sixty-second session under the same agenda item.

57th meeting
19 April 2005
[Adopted by a recorded vote of 52 votes to 1.
See chap. XIII.]

2005/45. Human rights and arbitrary deprivation of nationality

The Commission on Human Rights,

Recalling its resolutions on human rights and arbitrary deprivation of nationality, in particular resolution 1999/28 of 26 April 1999,

Reaffirming article 15 of the Universal Declaration of Human Rights, in accordance with which everyone has the right to a nationality and no one shall be arbitrarily deprived of his nationality,

Recognizing the right of States to establish laws governing the acquisition, renunciation or loss of nationality,

Noting the relevant provisions of international human rights instruments and instruments on statelessness relating to the prohibition of arbitrary deprivation of nationality, inter alia article 5, paragraph (d) (iii), of the International Convention on the Elimination of All Forms of Racial Discrimination, article 24, paragraph 3, of the International Covenant on Civil and Political Rights, articles 7 and 8 of the Convention on the Rights of the Child, articles 1 to 3 of the Convention on the Nationality of Married Women, article 9 of the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Reduction of Statelessness, *Recalling* that persons arbitrarily deprived of nationality are protected by international human rights and refugee law as well as instruments on statelessness, including, with respect to States parties, the Convention relating to the Status of Stateless Persons, the Convention relating to the Status of Refugees and the Protocol thereto,

Stressing that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis, as reaffirmed in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 (A/CONF.157/23),

Recalling General Assembly resolution 50/152 of 21 December 1995, which, inter alia, encouraged the Office of the United Nations High Commissioner for Refugees to continue its activities on behalf of stateless persons as a part of its statutory function of providing international protection and of seeking preventive action,

Noting the important work of the Office of the United Nations High Commissioner for Refugees in seeking to address and prevent the problem of statelessness, including its final report of March 2004 concerning the questionnaire on statelessness pursuant to the Agenda for Protection,

Recalling the resolutions of the Sub-Commission on the Promotion and Protection of Human Rights on the rights of non-citizens, in particular of paragraph 7 of its resolution 2003/21 of 13 August 2003, and also of the final report of the Special Rapporteur of the Sub-Commission on the rights of non-citizens (E/CN.4/Sub.2/2003/23 and Add.1-4),

Expressing its deep concern at the arbitrary deprivation of persons or groups of persons of their nationality, especially on racial, national, ethnic, religious, gender or political grounds,

Recalling that arbitrarily depriving a person of his or her nationality may lead to statelessness, and in this regard expressing concern at various forms of discrimination against stateless persons that violate the obligations of States under international human rights law,

Mindful of the endorsement by the General Assembly, in its resolution 41/70 of 3 December 1986, of the call upon all States to promote human rights and fundamental freedoms and to refrain from denying these to individuals in their populations because of nationality, ethnicity, race, religion or language,

1. *Reaffirms* that the right to a nationality of every human person is a fundamental human right;

2. *Recognizes* that arbitrary deprivation of nationality on racial, national, ethnic, religious, political or gender grounds is a violation of human rights and fundamental freedoms;

3. *Calls upon* all States to refrain from taking discriminatory measures and from enacting or maintaining legislation that would arbitrarily deprive persons of their nationality on grounds of race, colour, gender, religion, political opinion or national or ethnic origin, especially if such measures and legislation render a person stateless;

4. *Also calls upon* all States to adopt and implement nationality legislation with a view to preventing and reducing statelessness, consistent with fundamental principles of international law, in particular by preventing arbitrary deprivation of nationality;

5. *Calls upon* States that have not already done so to consider accession to the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons;

6. *Notes* that the full enjoyment of all human rights and fundamental freedoms of an individual might be impeded as a result of arbitrary deprivation of nationality, thereby hampering his or her social integration;

7. *Urges* the appropriate mechanisms of the Commission and the relevant United Nations treaty bodies to continue to collect information on this question from all relevant sources and to take account of such information, together with any recommendations thereon, in their reports and activities conducted within their respective mandates, and encourages the Office of the United Nations High Commissioner for Refugees to do the same;

8. *Requests* the Secretary-General to collect information on this question from all relevant sources and to make it available to the Commission for its consideration at its sixty-second session;

9. *Decides* to continue its consideration of this matter at its sixty-second session under the same agenda item.

57th meeting
19 April 2005
[Adopted without a vote. See chap. XIV.]

2005/46. Internally displaced persons

The Commission on Human Rights,

Deeply disturbed by the alarmingly high numbers throughout the world of persons who have been forced or obliged to flee or leave their homes or places of habitual residence and who have not crossed an internationally recognized State border, for reasons including armed conflict, violations of human rights and natural or human-made disasters,

Conscious of the human rights and humanitarian dimensions of the problem of internally displaced persons, who often do not receive adequate protection and assistance, and aware of the serious challenge this is creating for the international community and of the responsibility of States and the international community to strengthen methods and means to better address the specific protection and assistance needs of internally displaced persons,

Emphasizing the primary responsibility of national authorities to provide protection and assistance to internally displaced persons within their jurisdiction during all stages of the displacement cycle, as well as to address the root causes of their displacement in appropriate cooperation with the international community, *Noting* the resolve of the international community to find durable solutions for all internally displaced persons and to strengthen international cooperation in order to help them return voluntarily to their homes in safety and with dignity or, based on their free choice, to resettle in another part of their country, and to be smoothly reintegrated into their societies,

Recalling the relevant norms of international human rights law, international humanitarian law and international refugee law, and recognizing that the protection of internally displaced persons has been strengthened by identifying, reaffirming and consolidating specific standards for their protection, in particular through the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex),

Bearing in mind the relevant provisions of, inter alia, the United Nations Millennium Declaration, the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23) and the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1),

Noting that the Rome Statute of the International Criminal Court (A/CONF.183/9) defines the deportation or forcible transfer of population as a crime against humanity and the unlawful deportation or transfer of the civilian population as well as ordering the displacement of the civilian population as war crimes,

Taking note with appreciation of the convening of regional seminars on internal displacement, in particular the Regional Seminar on Internal Displacement in the Americas, held in Mexico City from 18 to 20 February 2004, as well as the Supplementary Human Dimension Meeting on internally displaced persons convened by the Organization for Security and Cooperation in Europe in Vienna on 4 and 5 November 2004,

Recalling its previous relevant resolutions, in particular resolution 2004/55 of 20 April 2004, taking note of Economic and Social Council decision 2004/263 of 22 July 2004 and recalling General Assembly resolution 58/177 of 22 December 2003,

Recalling also the request to the Secretary-General to review the new mechanism's performance and effectiveness two years after its inception and to submit a report thereon, as well as on the details of the mechanism, to the Commission at its sixty-second session,

Recognizing that significant progress has been made in defining and raising awareness of the problem of internal displacement, developing normative and institutional frameworks for the protection of, and assistance to, internally displaced persons, in particular the compilation and analysis of legal norms (E/CN.4/1996/52/Add.2) and the development of the Guiding Principles on Internal Displacement, undertaking country missions to engage in dialogue with Governments and other pertinent actors, conducting policy-oriented research into various dimensions of the displacement crisis and issuing reports, together with proposals for preventive or remedial measures,

Noting nonetheless that the magnitude of the problem of internal displacement remains serious and that the human rights needs of internally displaced persons, in particular for protection, are a matter of concern and require greater attention,

1. *Welcomes* the appointment of the new Representative of the Secretary-General on human rights of internally displaced persons;

2. *Also welcomes* the report of the Representative of the Secretary-General (E/CN.4/2005/84 and Add.1), in particular his observations on the need to reinforce the protection of the human rights of internally displaced persons and the capacity of States in this regard;

3. *Expresses concern* at the persistent problems of large numbers of internally displaced persons worldwide, in particular the risk of extreme poverty and socio-economic exclusion, their limited access to humanitarian assistance, vulnerability to human rights violations, as well as difficulties resulting from their specific situation, such as lack of food, medication or shelter and issues pertinent during their reintegration, including, in appropriate cases, the need for the restitution of or compensation for property;

4. *Expresses particular concern* at the grave problems faced by many internally displaced women and children, including violence and abuse, sexual exploitation, forced recruitment and abduction, and notes the need to pay more systematic and in-depth attention to their special assistance, protection and development needs, as well as those of other groups with special needs among the internally displaced, such as older persons and persons with disabilities, taking into account the relevant resolutions of the General Assembly and bearing in mind Security Council resolution 1325 (2000) of 31 October 2000;

5. *Notes* the importance of taking the human rights and the specific protection and assistance needs of internally displaced persons into consideration, when appropriate, in peace processes and in reintegration and rehabilitation processes;

6. *Welcomes* the cooperation established between the new Representative of the Secretary-General and the United Nations as well as other international and regional organizations, in particular his participation in the work of the Inter-Agency Standing Committee and its subsidiary bodies as well as the Memorandum of Understanding with the Inter-Agency Internal Displacement Division of the Office for the Coordination of Humanitarian Affairs and the Global Internally Displaced Persons Project of the Norwegian Refugee Council;

7. *Expresses its appreciation* of the Guiding Principles on Internal Displacement as an important tool for dealing with situations of internal displacement, welcomes the fact that an increasing number of States, United Nations agencies and regional and non-governmental organizations are applying them as a standard, and encourages all relevant actors to make use of the Guiding Principles when dealing with situations of internal displacement;

8. *Welcomes* the dissemination, promotion and application of the Guiding Principles and the fact that the Representative of the Secretary-General has used them in his dialogues with Governments, intergovernmental and non-governmental organizations and other pertinent actors, and encourages the continued dissemination and promotion of the Guiding Principles, inter alia through supporting and initiating their publication and translation, undertaking training programmes, holding consultations with Governments, regional organizations, intergovernmental and non-governmental organizations and other relevant institutions,

convening national, regional and international seminars on displacement, and providing support for efforts to promote capacity-building and the use of the Guiding Principles as well as the development of domestic legislation and policies;

9. *Expresses its appreciation* to Governments and intergovernmental and non-governmental organizations that have provided assistance and protection to internally displaced persons, developed policies to address their plight and supported the work of the Representative of the Secretary-General;

10. *Calls upon* Governments to provide protection and assistance, including reintegration and development assistance, to internally displaced persons, to develop national policies aimed at addressing their plight, as well as to ensure that they benefit from public services, in particular basic social services such as health services and education, based on the principle of non-discrimination, and to facilitate the efforts of relevant United Nations agencies and humanitarian organizations in these respects, including by improving access to internally displaced persons;

11. *Urges* all those concerned, as set forth in international humanitarian law, including the Geneva Conventions, of 12 August 1949, and the Regulations of 18 October 1907 annexed to the Hague Convention IV concerning the Laws and Customs of War on Land, to allow full unimpeded access by humanitarian personnel to all people in need of assistance, and to make available, as far as possible, all necessary facilities for their operations, and to promote the safety, security and freedom of movement of humanitarian personnel and the United Nations and its associated personnel and their assets;

12. *Encourages* all Governments, in particular Governments of countries with situations of internal displacement, to facilitate United Nations activities and to respond favourably to requests for visits as well as for information, and urges Governments as well as the relevant parts of the United Nations system, also at the country level, to follow up effectively on United Nations recommendations and to make available information on measures taken in this regard;

13. *Stresses* the need to strengthen further inter-agency arrangements and the capacities of United Nations agencies and other relevant actors to meet the immense humanitarian challenge of internal displacement, and calls upon States to provide adequate resources for programmes to assist and protect internally displaced persons with a view to enhancing the capacities of countries with situations of internal displacement, and of the relevant intergovernmental and non-governmental organizations, to meet the needs of internally displaced persons;

14. *Notes with appreciation* the activities aimed at addressing the plight of internally displaced persons undertaken by all relevant humanitarian assistance, human rights and development agencies and organizations, including non-governmental organizations, and encourages them to enhance further their collaboration and coordination with regard to internally displaced persons, especially through the Inter-Agency Standing Committee;

15. *Encourages* the Emergency Relief Coordinator, in his capacity as head of the Office for the Coordination of Humanitarian Affairs, to lead the efforts aimed at promoting an effective, predictable and collaborative response among all relevant international agencies and bodies with regard to protecting and assisting internally displaced persons, at headquarters as well as in countries with situations of internal displacement, making use of the work of the Inter-Agency Internal Displacement Division and bearing in mind the central role of resident or humanitarian coordinators and the need to continue to enhance their capacity;

16. *Notes with appreciation* the increased attention paid to internally displaced persons in the United Nations consolidated appeals process and encourages further efforts in this regard, in particular the inclusion of activities to address protection issues, including the protection of the human rights of internally displaced persons;

17. *Acknowledges with appreciation* the work of the International Committee of the Red Cross and the other components of the International Red Cross and Red Crescent Movement in protecting and assisting internally displaced persons;

18. *Notes with appreciation* the efforts of non-governmental organizations and the increasing role of national human rights institutions in assisting internally displaced persons and in promoting and protecting their human rights;

19. *Welcomes* the initiatives undertaken by regional organizations, such as the African Union, the Organization of American States, the Organization for Security and Cooperation in Europe, the Intergovernmental Authority on Development, the Council of Europe, the Commonwealth and the Economic Community of West African States, to address the assistance, protection and development needs of internally displaced persons, and encourages them and other regional organizations to strengthen their activities in this regard;

20. *Also welcomes* the attention paid by relevant special rapporteurs, working groups, experts and treaty bodies to issues of internal displacement, and calls upon them to continue to seek information on situations that have already created or could create internal displacement and to include relevant information and recommendations thereon in their reports;

21. *Calls upon* the United Nations High Commissioner for Human Rights, in cooperation with Governments and national human rights institutions, and with other relevant parts of the United Nations system, to continue to promote the human rights of internally displaced persons, to enhance their protection on the ground and to develop projects to address their plight as part of the programme of advisory services and technical cooperation, including in the areas of human rights education, training and assistance in legislative and policy development, and to provide information thereon;

22. *Recognizes* the importance of the global database on internally displaced persons, and encourages the members of the Inter-Agency Standing Committee and Governments to continue to collaborate on and support this effort, including by providing relevant data on situations of internal displacement and financial resources;

23. *Requests* the Representative of the Secretary-General to address the complex problem of internal displacement, in particular by mainstreaming human rights of the internally displaced into all relevant parts of the United Nations system;

24. *Recommends* that the Representative of the Secretary-General work towards strengthening the international response to the complex problem of situations of internal displacement and engage in coordinated international advocacy and action for improving protection and respect of the human rights of the internally displaced, while continuing and enhancing dialogues with Governments, as well as non-governmental organizations and other relevant actors;

25. *Requests* the Secretary-General to provide his Representative, from within existing resources, with all necessary assistance and adequate staffing to carry out his mandate effectively and to ensure that the mechanism works with the support of the Office of the United Nations High Commissioner for Human Rights, from within its existing resources, and in close cooperation with the Emergency Relief Coordinator and, in particular, the Inter-Agency Internal Displacement Division and the United Nations High Commissioner for Refugees;

26. *Encourages* States as well as relevant organizations and institutions to consider making voluntary contributions;

27. *Invites* the Representative of the Secretary-General to submit annual reports on his activities to the Commission and to the General Assembly, making suggestions and recommendations regarding the human rights of internally displaced persons and engaging in an interactive dialogue thereon;

28. *Decides* to continue its consideration of the question of internal displacement at its sixty-second session.

57th meeting
19 April 2005
[Adopted without a vote. See chap. XIV.]

2005/47. Human rights of migrants

The Commission on Human Rights,

Reaffirming the Universal Declaration of Human Rights, which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Recalling its resolution 2004/53 of 20 April 2004, taking note of General Assembly resolution 59/194 of 20 December 2004 and recalling Assembly resolution 40/144 of 13 December 1985, by which it approved the Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live,

Considering that every State party to the International Covenant on Civil and Political Rights must ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, and that every State party to the International Covenant on Economic, Social and Cultural Rights has undertaken to guarantee the exercise of all rights enunciated in that Covenant without discrimination of any kind, including in particular on the basis of national origin, *Reaffirming* the provisions concerning migrants adopted by the World Conference on Human Rights, the International Conference on Population and Development, the World Summit for Social Development, the Fourth World Conference on Women and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and expressing its satisfaction at the important recommendations made for the development of international and national strategies for the protection of migrants and for the design of migration policies that fully respect the human rights of migrants,

Recalling the renewed commitment made in the United Nations Millennium Declaration to take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in all societies and to promote greater harmony and tolerance,

Recalling the judgement of the International Court of Justice of 27 June 2001 and advisory opinions OC-16/99 of 1 October 1999 and OC-18/03 of 17 September 2003, issued by the Inter-American Court of Human Rights, on the Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law and on the Juridical Condition and Rights of Undocumented Migrants, respectively,

Recalling also the judgement of the International Court of Justice of 31 March 2004 in the *Avena and Other Mexican Nationals* case (*Mexico v. United States of America*) and the obligations of States reaffirmed therein,

Aware of the increasing number of migrants worldwide, and bearing in mind the situation of vulnerability in which migrants and their families frequently find themselves, owing, inter alia, to their absence from their States of origin and to the difficulties they encounter because of differences of language, custom and culture, as well as the economic and social difficulties and obstacles to the return of migrants, especially for those who are undocumented or in an irregular migratory situation, to their States of origin,

Concerned at the large and growing number of migrants, especially women and children, who attempt to cross international borders without the required travel documents, which places these migrants in a particularly vulnerable situation, and recognizing the obligation of States to respect the human rights of these migrants,

Deeply concerned at the manifestations of violence, racism, racial discrimination, xenophobia and other forms of intolerance and inhuman and degrading treatment against migrants, especially women and children, in different parts of the world,

Concerned also that the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance has indicated the appearance of new forms of discrimination targeting migrants, among other groups,

Recognizing the increasing participation of women in international migration movements,

Recognizing also the positive and diverse contributions that migrants make to host and origin societies, and the efforts that some host countries undertake to integrate migrants and their families, *Highlighting* the importance of creating conditions that favour greater harmony, tolerance and respect between migrants and the rest of society in the countries in which they find themselves, in order to eliminate manifestations of racism and xenophobia against migrants and members of their families,

Bearing in mind the mandate of the Special Rapporteur on the human rights of migrants contained in its resolution 1999/44 of 27 April 1999,

Encouraged by the increasing interest of the international community in the effective and full protection of the human rights of all migrants, and underlining the need to make further efforts to ensure respect for the human rights and fundamental freedoms of all migrants,

Emphasizing the global character of the migratory phenomenon, the importance of international, regional and bilateral cooperation and the need to protect human rights of migrants, particularly at a time in which migration flows have increased in the globalized economy and take place in a context of new security concerns,

Bearing in mind that policies and initiatives on the issue of migration, including those that refer to the orderly management of migration, should promote holistic approaches that take into account the causes and consequences of the phenomenon, as well as the full respect of human rights and fundamental freedoms of migrants,

Resolved to ensure respect for the human rights and fundamental freedoms of all migrants,

1. *Strongly condemns* the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them, and urges States to apply the existing laws when xenophobic or intolerant acts or manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit xenophobic and racist acts, and calls upon States to implement fully the commitments and recommendations relating to the promotion and protection of human rights of migrants contained in the Durban Declaration and Programme of Action (A/CONF.189/12 and Corr.1) through, inter alia, the adoption of national plans of action, as recommended by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

2. *Also strongly condemns* all forms of racial discrimination and xenophobia related to access to employment, vocational training, housing, schooling, health services and social services, as well as services intended for use by the public;

3. *Welcomes* the active role played by governmental and non-governmental organizations in combating racism and xenophobia and assisting victims of racist acts, including migrant victims;

4. *Calls upon* all States to consider reviewing and, where necessary, revising immigration policies with a view to eliminating all discriminatory practices against migrants and their families and to provide specialized training for government policy-making and law enforcement, migration and other concerned officials, including in cooperation with non-governmental organizations and civil society, thus underlining the importance of effective action to create conditions that foster greater harmony and tolerance within societies;

5. *Requests* States effectively to promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their immigration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party, which may include the International Covenants on Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and other relevant human rights instruments, norms and standards;

6. *Requests* all States, international organizations and relevant stakeholders to take into account in their policies and initiatives on migration issues the global character of the migratory phenomenon and to give the necessary relevance to international, regional and bilateral cooperation in this field, with a view to addressing, in a comprehensive manner, its causes and consequences and granting priority to the protection of human rights of migrants;

7. *Reaffirms emphatically* the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations, particularly with regard to the right of foreign nationals, regardless of their immigration status, to communicate with a consular official of their own State in the case of detention, and the obligation of the State in whose territory the detention occurs to inform the foreign national of that right;

8. *Expresses concern* about the legislation and the measures adopted by some States that restrict the human rights and fundamental freedoms of migrants;

9. *Welcomes* immigration programmes, adopted by some countries, that allow migrants to integrate fully into the host countries, facilitate family reunification and promote a harmonious and tolerant environment, and encourages States to consider the possibility of adopting these types of programmes;

10. *Calls upon* States to facilitate family reunification in an expeditious and effective manner, with due regard to applicable laws, as such reunification has a positive effect on the integration of migrants;

11. *Encourages* all States to apply a gender perspective in developing international migration policies and programmes in order to adopt the necessary measures to better protect women and girls against dangers and abuse during migration;

12. *Encourages* States of origin to promote and protect the human rights of those families of migrant workers that remain in the countries of origin, paying particular attention to children and adolescents whose parents have emigrated, and encourages international organizations to consider supporting States in this regard;

13. *Requests* all States, in conformity with national legislation and applicable international legal instruments to which they are party, firmly to prosecute violations of labour law with regard to migrant workers' conditions of work, inter alia those related to their remuneration and conditions of health, safety at work and the right to freedom of association;

14. *Encourages* all States to remove unlawful obstacles that may prevent the safe, unrestricted and expeditious transfer of earnings, assets and pensions of migrants to their country of origin or to any other countries, in conformity with applicable legislation, and to consider, as appropriate, measures to solve other problems that may impede such transfers;

15. *Urges* all States to adopt effective measures to put an end to the arbitrary arrest and detention of migrants and to take actions to prevent and punish any form of illegal deprivation of liberty of migrants by individuals or groups;

16. *Also urges* all States to promote and adopt effective measures to enforce their immigration laws and border controls only by means of duly authorized and trained government officials and to prevent private persons or groups from carrying out conduct reserved for such government officials, as well as to prosecute and punish those violations of the law that may result from such conduct;

17. *Calls upon* States to observe national legislation and applicable international legal instruments to which they are party when enacting national security measures, in order to respect the human rights of migrants;

18. *Requests* States to adopt concrete measures in order to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, to train public officials who work in those facilities and in border areas to treat migrants and their families respectfully and in accordance with the law, and to prosecute, in conformity with applicable law, any act of violation of the human rights of migrants and their families, inter alia, arbitrary detention, torture and violations of the right to life, including extrajudicial executions during their transit from their country of origin to the country of destination and vice versa, including their transit through national borders;

19. *Encourages* States that have not yet done so to enact domestic legislation and to take further effective measures to combat and prosecute international trafficking and smuggling of migrants, which should take into account, in particular, trafficking and smuggling that endanger the lives of migrants or entail different forms of servitude or exploitation, such as any form of debt bondage, slavery and sexual exploitation or forced labour, and also encourages States to strengthen international cooperation to combat such trafficking and smuggling;

20. *Also encourages* States, in cooperation with non-governmental organizations, to undertake information campaigns aimed at clarifying opportunities, limitations and rights in the event of migration, so as to enable everyone, in particular women, to make informed decisions and to prevent them from becoming victims of trafficking and utilizing dangerous means of access that put their lives and physical integrity at risk;

21. *Calls upon* States to protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, ensuring that the best interests of the children are a primary consideration, and underlines the importance of reuniting them with their parents, when possible, and encourages the relevant United Nations bodies, within the framework of their respective mandates, to pay special attention to the conditions of migrant children in all States and, where necessary, to put forward recommendations to strengthen their

protection, especially against sexual abuse, sexual exploitation, threat or use of force or other forms of coercion, including coercion into begging, drug dealing, in particular by national or transnational organized crime groups;

22. *Encourages* States to consider participating in international and regional dialogues on migration that include sending and receiving countries, as well as countries of transit, and invites them to consider negotiating bilateral and regional agreements on migrant workers in the framework of applicable human rights law and designing and implementing programmes with States of other regions to protect the rights of migrants;

23. *Calls upon* States and intergovernmental and non-governmental organizations to observe on 18 December of each year International Migrants Day, proclaimed by the General Assembly, by disseminating, inter alia, information on the human rights and fundamental freedoms of migrants and on their economic, social and cultural contributions to their host and home countries, and by sharing experiences and adopting measures to ensure their protection and to promote greater harmony between migrants and the societies in which they live;

24. *Decides* to extend for a period of three years the mandate of the Special Rapporteur on the human rights of migrants;

25. *Takes note with appreciation* of the report of the Special Rapporteur on the human rights of migrants (E/CN.4/2005/85 and Corr.1 and Add.1-4) and her interim report to the General Assembly (see A/59/377), both submitted pursuant to Commission resolution 2004/53, especially regarding the work she has undertaken, including on the aspect of migrant domestic workers, and takes note of her observations and recommendations;

26. *Requests* all relevant mechanisms to cooperate with the Special Rapporteur;

27. *Encourages* States to consider the implementation of the recommendations contained in the report of the Special Rapporteur, to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated and to give serious consideration to her requests to visit their countries, and notes with appreciation that some Governments have already invited the Special Rapporteur;

28. *Encourages* the Special Rapporteur to continue to examine ways and means of overcoming existing obstacles to the full and effective protection of the human rights of persons belonging to this large vulnerable group, including obstacles to and difficulties for the return of migrants who are undocumented or in an irregular situation, taking into account bilateral and regional initiatives and arrangements that aim at addressing, inter alia, the return and reinsertion of those migrants, in conformity with her mandate as contained in Commission resolution 1999/44;

29. *Requests* the Special Rapporteur, in carrying out her mandate and within the framework of the Universal Declaration of Human Rights and all other international human rights instruments, to request, receive and exchange information on violations of the human rights of migrants, wherever they may occur, from Governments, treaty bodies, specialized agencies and the special mechanisms of the Commission, as well as from intergovernmental organizations, other competent organizations of the United Nations system and

non-governmental organizations, including migrants' organizations, and to respond effectively to such information, as well as to continue, as part of the Rapporteur's activities, her programme of visits, which contribute to improving the protection afforded to the human rights of migrants and to the broad and full implementation of all the aspects of her mandate;

30. *Also requests* the Special Rapporteur to report to the General Assembly at its sixtieth session and to the Commission at its sixty-second session and to include in her annual reports a chapter on the impact of the legislation and the measures adopted by some States that restrict the human rights and fundamental freedoms of migrants;

31. *Requests* the United Nations High Commissioner for Human Rights and her Office, as well as the Special Rapporteur, to ensure that the perspective of human rights of migrants is included in the ongoing analysis on migration and development within the United Nations system, including at the high-level dialogue that will be held during the sixty-first session of the General Assembly, pursuant to Assembly resolution 58/208 of 23 December 2003;

32. *Requests* the Secretary-General to give the Special Rapporteur all the necessary human and financial assistance for the fulfilment of her mandate;

33. *Encourages* States parties to implement fully the United Nations Convention against Transnational Organized Crime and the two additional protocols thereto, namely, the Protocol against the Smuggling of Migrants by Land, Sea and Air, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and urges States that have not done so to consider ratifying them;

34. *Decides* to examine this question further at its sixty-second session under the same agenda item;

35. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 13.]

57th meeting
19 April 2005
[Adopted without a vote. See chap. XIV.]

2005/48. Human rights and mass exoduses

The Commission on Human Rights,

Deeply disturbed by the scale and magnitude of exoduses and displacements of people in many regions of the world and by the human suffering of refugees and displaced persons, a high proportion of whom are women and children,

Recalling its previous relevant resolutions on this subject, as well as those of the General Assembly, and the conclusions of the World Conference on Human Rights, *Recalling also* relevant human rights standards, including article 14 of the Universal Declaration of Human Rights and the principles of international protection for refugees, including the general conclusions on international protection of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees,

Mindful of the four reports of the Secretary-General on the protection of civilians in armed conflict (S/1999/957, S/2001/331, S/2002/1300 and S/2004/431) and the recommendations made therein, as well as Security Council resolutions 1265 (1999) of 17 September 1999 and 1296 (2000) of 19 April 2000 and the updated aide-memoire adopted by the Council on 15 December 2003 on that subject (S/PRST/2003/27, annex),

Stressing the importance of adherence to international humanitarian, human rights and refugee law in order to avert mass exoduses and displacements, to mitigate their effects and to protect refugees and internally displaced persons at all stages of the displacement cycle, and expressing its deep concern at the lack of respect for those laws and principles, especially during armed conflict, including, inter alia, the denial of full, safe and unimpeded access to displaced persons by humanitarian workers,

Reaffirming the primary responsibility of States to ensure the protection within their own territories of refugees, as well as internally displaced persons,

Recognizing that acts of deportation or forcible transfer of populations which, inter alia, lead to or result from mass exoduses and displacements are included as crimes against humanity in the Rome Statute of the International Criminal Court (A/CONF.183/9), and recognizing also the importance of ending impunity for perpetrators of such crimes,

Recognizing also that the human rights machinery of the United Nations, including the mechanisms of the Commission and the human rights treaty bodies, has important capabilities for addressing human rights violations that cause movements of refugees and displaced persons or prevent durable solutions to their plight,

Recognizing further the complementarity between the systems for the protection of human rights and for humanitarian action, in particular the mandates of the United Nations High Commissioner for Human Rights and the United Nations High Commissioner for Refugees, as well as the work of the Office for the Coordination of Humanitarian Affairs, the Representative of the Secretary-General on human rights of internally displaced persons and the Special Representative of the Secretary-General for children and armed conflict, and that cooperation between them, in accordance with their respective mandates, and coordination between the human rights, political and security components of United Nations operations make important contributions to the promotion and protection of human rights of persons forced into mass exodus and displacement,

Welcoming the Agenda for Protection, emanating from the Office of the United Nations High Commissioner for Refugees' Global Consultations on International Protection, which was endorsed by the Executive Committee of the High Commissioner's Programme and welcomed by the General Assembly, and noting in this context the elements that relate to refugees in mass influx situations, including those relating to the problem of insecurity in refugee camps and the importance of refugee registration,

1. *Calls upon* all States to promote human rights and fundamental freedoms without discrimination of any kind, such as on the basis of national or social origin, ethnicity, race, gender, age, religion, political or other opinion, language, birth or other status, and, in so doing, to make a substantial contribution to addressing human rights situations that lead to or result from mass exoduses and displacements;

2. *Welcomes* the report of the United Nations High Commissioner for Human Rights on human rights and mass exoduses (E/CN.4/2005/80 and Add.1), and stresses that the themes identified in the addendum reflect those issues that continue to require particular attention by States in references to mass exodus situations;

3. *Reaffirms* the need for all Governments, intergovernmental bodies and concerned international organizations to intensify their cooperation and assistance to address human rights situations that lead to, as well as the serious protection problems that result from, mass exoduses of refugees and displaced persons;

4. *Emphasizes* the responsibility of all States and international organizations to cooperate with those countries, particularly developing countries, affected by mass exoduses of refugees and displaced persons, and calls upon Governments, the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees, other relevant parts of the United Nations system and other humanitarian and development organizations to continue to respond to the assistance and protection needs that exist in countries hosting large numbers of refugees and displaced persons until durable solutions are found, and notes in this regard conclusion No. 100 (LV) adopted on 8 October 2004 by the Executive Committee of the Programme of the United Nations High Commissioner for Refugees;

5. *Encourages* States that have not already done so to consider acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as far as possible without reservations, and to relevant regional instruments concerning refugees, as applicable, and other relevant international instruments of human rights and humanitarian law, and also encourages States to consider lifting reservations that they may have made to such instruments and to take appropriate measures to disseminate and implement those instruments domestically in order to encourage compliance with provisions against arbitrary and forcible displacement and greater respect for the rights of those who flee;

6. *Welcomes* the fact that the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex) have served as a basis for new laws or policies on internally displaced persons in a number of countries, and also the fact that an increasing number of States, United Nations agencies, humanitarian and human rights agencies, as well as regional and non-governmental organizations are applying them as a standard and using them in the course of their work, and encourages States to continue to make use of the Guiding Principles in designing and implementing their policies on internal displacement;

7. *Calls upon* States to ensure effective protection of refugees by, inter alia, respecting the right under the Universal Declaration of Human Rights to seek and enjoy asylum and the principle of non-refoulement, and urges all States to promote and protect the human rights and fundamental freedoms of refugees and asylum-seekers;

8. *Also calls upon* States to ensure effective protection of, and assistance to, refugees and internally displaced persons at all stages of the displacement cycle, consistent with international law, including by ensuring full, safe and unhindered access by humanitarian workers to displaced populations and ensuring the security and civilian and humanitarian nature of camps and settlements for refugees and internally displaced persons;

9. *Urges* States to uphold the civilian and humanitarian character of asylum consistent with international law, inter alia through effective measures to prevent the infiltration of armed elements, to identify and separate any such armed elements from refugee populations, to settle refugees at safe locations and to afford prompt, safe and unhindered access to them by humanitarian workers, and notes in this regard conclusion No. 94 (LIII) adopted on 8 October 2002 by the Executive Committee of the Programme of the United Nations High Commissioner for Refugees;

10. *Recognizes* that, in addition to the problems refugee and displaced women and girls share with all refugees and displaced persons, they are vulnerable to persecution, gender-based discrimination and gender-specific violations of human rights, and calls upon States to protect and promote and respect the human rights of refugee and displaced women and children, to ensure that their particular needs are met, and to ensure that women are full and equal participants in the planning, design, implementation, monitoring and evaluation of all projects and programmes;

11. *Expresses its grave concern* at allegations of sexual exploitation of and violence against refugees and internally displaced persons, condemns all instances of abuse and exploitation of such persons, and calls on all relevant agencies to ensure the effective implementation and monitoring of the Plan of Action on Protection from Sexual Exploitation and Abuse in Humanitarian Crises drawn up by the Inter-Agency Standing Committee, other relevant codes of conduct and the Secretary-General's Bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13);

12. *Calls upon* States to combat impunity for human rights violations, recognizing that addressing impunity is a crucial factor in the prevention of mass exoduses and in the creation of conditions conducive to the sustainable return of refugees and internally displaced persons in safety and dignity, as is strengthening the capacity of national human rights institutions;

13. *Underscores* the importance of addressing protracted refugee situations and so-called forgotten emergencies, recognizing the severe and long-lasting physical and psychosocial impacts of prolonged displacement, and calls upon all States to promote conditions conducive to the voluntary return of refugees in safety and with dignity and to support the other two durable solutions of local integration, or resettlement where appropriate;

14. *Welcomes* the efforts of the United Nations High Commissioner for Human Rights to contribute to the creation of an environment for a viable and sustainable return of refugees and displaced persons in post-conflict societies through initiatives such as the rehabilitation of the justice system, including mechanisms for restoration of property and compensation and reparations as appropriate, the creation of independent national institutions capable of defending human rights, broad-based programmes of human rights education and the

strengthening of local non-governmental organizations through field presences and programmes of advisory services and technical cooperation, and calls on the Office of the United Nations High Commissioner for Human Rights to strengthen its efforts in these areas;

15. *Encourages* the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees, other relevant components of the United Nations system, other humanitarian organizations and regional organizations to continue to cooperate within their respective mandates and in accordance with international law in the creation of an environment for a viable and sustainable return of refugees and displaced persons in post-conflict societies;

16. *Requests* the United Nations High Commissioner for Human Rights, in the exercise of her mandate and in cooperation with the United Nations High Commissioner for Refugees, the Representative of the Secretary-General on the human rights of internally displaced persons and the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, to pay particular attention to human rights situations that cause, threaten to cause or affect mass exoduses of populations and to contribute to efforts to address such situations effectively through promotion and protection measures, emergency preparedness and response mechanisms, early warning and information-sharing, technical advice and expertise and cooperation in countries of origin and host countries;

17. *Encourages* all United Nations bodies, including the human rights treaty bodies, acting within their mandates, and the specialized agencies, as well as governmental, intergovernmental and non-governmental organizations, and the special procedures of the Commission to pay particular attention to, to exchange information on and to provide the United Nations High Commissioner for Human Rights with all relevant information in their possession on human rights situations that create or affect refugees and displaced persons, for appropriate action in fulfilment of her mandate, in consultation with the United Nations High Commissioner for Refugees and the Representative of the Secretary-General;

18. *Welcomes with appreciation* the ongoing contributions of the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees and the Representative of the Secretary-General to the work of the Commission, its special procedures and to other international human rights bodies and mechanisms, and invites them to exchange relevant information on mass exoduses and displacements with all United Nations bodies, including the human rights treaty bodies, acting within their mandates, and invites the United Nations High Commissioner for Refugees to address the Commission at each of its future sessions;

19. *Requests* the United Nations High Commissioner for Human Rights to prepare and submit to the Commission at its sixty-third session an analytical report on measures taken to implement the present resolution and obstacles to its implementation, including information on measures taken by the Office of the High Commissioner and other relevant United Nations bodies, taking into account information and comments provided by Governments, intergovernmental organizations, human rights treaty bodies, specialized agencies, and non-governmental organizations;

20. *Also requests* the High Commissioner to include in her report, as an annex, an update of the thematic compilation of relevant reports and resolutions of the Commission and the Sub-Commission on the Promotion and Protection of Human Rights, and relevant material from the human rights treaty bodies and regional human rights bodies;

21. *Decides* to continue its consideration of this question at its sixty-third session under the sub-item "Mass exoduses and displaced persons" of the agenda item entitled "Specific groups and individuals".

57th meeting
19 April 2005
[Adopted without a vote. See chap. XIV.]

2005/49. Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights

The Commission on Human Rights,

Considering Economic and Social Council resolution 1982/34, in which the Council authorized the Sub-Commission on the Promotion and Protection of Human Rights, formerly the Sub-Commission on Prevention of Discrimination and Protection of Minorities, to establish annually a working group on indigenous populations with the mandate to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations, giving special attention to the evolution of standards concerning the rights of indigenous populations,

Recalling Economic and Social Council resolution 2000/22 of 28 July 2000, its own resolutions 2003/55 of 24 April 2003 and 2004/57 of 20 April 2004, and Sub-Commission resolutions 2002/17 and 2002/21 of 14 August 2002,

Reaffirming its recognition of the value and diversity of the cultures and forms of social organization of indigenous people and that the development of indigenous people within their countries will contribute to the socio-economic, cultural and environmental advancement of all the countries of the world,

Reaffirming the urgent need to recognize, promote and protect more effectively the human rights and fundamental freedoms of indigenous people and the important role to be played in that respect by all existing mechanisms within the United Nations system mandated to review indigenous issues,

Considering the continuing need for the Working Group on account of its present mandate, which is distinct from those of the Permanent Forum on Indigenous Issues and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people,

Convinced of the need to further explore ways and means to promote and strengthen the already existing cooperation between the Working Group, the Permanent Forum and the Special Rapporteur, since their respective mandates are complementary and do not give rise to duplication, *Considering* that the General Assembly, in its resolution 59/174 of 20 December 2004, proclaimed the Second International Decade of the World's Indigenous People, commencing on 1 January 2005, establishing as the goal of the new Decade to strengthen further international cooperation for the solution of problems faced by indigenous people in such areas as culture, education, health, human rights, the environment and social and economic development, by means of action-oriented programmes and specific projects, increased technical assistance and relevant standard-setting activities,

Recognizing the importance of consultation and cooperation with indigenous people and their organizations in planning and implementing the programme of activities for the Second Decade, the need for adequate financial support from the international community, including support from within the United Nations and the specialized agencies, and the need for adequate coordination and communication channels,

Aware that, in accordance with the specific request by the General Assembly in paragraph 3 of its resolution 59/174, the Secretary-General has appointed Mr. José Antonio Ocampo, Under-Secretary-General for Economic and Social Affairs, as the Coordinator for the Second Decade,

Considering that, in its resolution 59/174 proclaiming the Second Decade, the General Assembly took due note of Commission resolution 2004/62 of 21 April 2004, in which the Commission expressed its deep concern about, inter alia, the persistence of grave violations of the human rights of indigenous people and reaffirmed the urgent need to recognize, promote and protect more effectively their rights and freedoms,

Recognizing the valuable contribution made by the High Commissioner for Human Rights in coordinating the International Decade of the World's Indigenous People in accordance with General Assembly resolution 48/163 of 21 December 1993,

Convinced of the need to facilitate and secure full cooperation and consultation between the Coordinator of the Second Decade and Governments, the Permanent Forum on Indigenous Issues and other relevant bodies and mechanisms of the United Nations system, inter alia, the Working Group on Indigenous Populations and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Office of the United Nations High Commissioner for Human Rights, other members of the Inter-Agency Support Group on Indigenous Issues and indigenous and non-governmental organizations,

I. REPORT OF THE WORKING GROUP ON INDIGENOUS POPULATIONS OF THE SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

1. *Takes note* of the report of the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2005/2-E/CN.4/Sub.2/2004/48) and of the report of the Working Group on Indigenous Populations on its twenty-second session (E/CN.4/Sub.2/2004/28) and, in particular, of its conclusions and recommendations;

2. *Recommends* that the Economic and Social Council authorize the Working Group to meet for five working days prior to the fifty-seventh session of the Sub-Commission;

3. *Also recommends* that the Economic and Social Council authorize the Chairperson-Rapporteur of the twenty-second session of the Working Group to submit the report on that session to the Permanent Forum on Indigenous Issues during the Forum's fourth session in 2005, as requested in Sub-Commission resolution 2004/15 of 9 August 2004;

4. *Invites* the Working Group to give special attention to its standard-setting activities throughout the Second International Decade of the World's Indigenous People;

5. *Welcomes* the fact that the Working Group has continued to carry out a comprehensive review of developments and of the diverse situations and aspirations of the world's indigenous people and that at its twenty-third session, the Working Group will focus on the theme "Indigenous peoples and the international and domestic protection of traditional knowledge", and invites Governments, intergovernmental organizations, indigenous organizations and non-governmental organizations to provide information and data on this theme to the Working Group at its twenty-third session;

6. *Invites* the Working Group to continue its consideration of ways and means in which the expertise of indigenous people can contribute to the work of the Working Group, and encourages initiatives by Governments, organizations of indigenous people and non-governmental organizations to ensure the full participation of indigenous people in the activities related to the tasks of the Working Group;

7. *Also invites* the Working Group and all thematic special rapporteurs, special representatives, independent experts, working groups and expert seminars, within the framework of their respective mandates, to continue considering possible ways and means to ensure that the particular situation of indigenous peoples is properly reflected in their periodic reports to their superior bodies, so as to contribute to the effective fulfilment of the respective mandates of the Economic and Social Council, the Commission, the Sub-Commission, the Permanent Forum, the Working Group and the Special Rapporteur;

8. *Requests* the Secretary-General:

(*a*) To provide adequate resources and assistance to the Working Group in the discharge of its tasks, including adequate dissemination of information about the activities of the Working Group to Governments, specialized agencies, non-governmental organizations and organizations of indigenous people, in order to encourage the widest possible participation in its work;

(*b*) To transmit the reports of the Working Group to Governments, organizations of indigenous people and intergovernmental and non-governmental organizations, as soon as possible, for specific comments and suggestions;

II. SECOND INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE

9. *Expresses its appreciation* to the present and previous United Nations High Commissioners for Human Rights for coordinating the International Decade of the World's Indigenous People and contributing to the promotion of international cooperation to improve the situations of indigenous people;

10. *Also expresses its appreciation* to the Advisory Group for the Voluntary Fund for the Decade for its advice to the Coordinator on the disbursement of funds for projects and activities aimed at implementing the programme of action of the Decade;

11. *Emphasizes* the urgency of adopting the United Nations declaration on the rights of indigenous peoples as soon as possible;

12. *Urges* all States to continue working, in cooperation with the United Nations system, on the implementation of the conclusions and recommendations of the Decade and to take the necessary measures to support the goals of the Second Decade;

13. *Invites* the Coordinator for the Second Decade to take the necessary steps to establish, as soon as possible, the basis for the full cooperation and consultation required to secure the effective participation of Governments, the Permanent Forum on Indigenous Issues and other relevant bodies and mechanisms of the United Nations system, inter alia, the Working Group on Indigenous Populations and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Office of the High Commissioner for Human Rights, other members of the Inter-Agency Support Group on Indigenous Issues and indigenous and non-governmental organizations, in the planning, execution and monitoring of the programme of action of the Second Decade;

14. *Invites* the Working Group to submit in due course to the Coordinator for the Second Decade, through the Office of the High Commissioner, a list of activities to be considered for possible inclusion as part of the human rights component of the comprehensive programme of action for the Second Decade that the Secretary-General has been requested to submit to the General Assembly at its sixtieth session;

15. *Requests* the High Commissioner to submit to the Commission at its sixty-second session, under the agenda item entitled "Indigenous issues", a report on the activities undertaken by her Office during the calendar year 2005 relating to indigenous people, as well as proposals both within and outside the framework of the Second Decade for enhancing the promotion and protection of the individual and collective rights of indigenous people, including their human rights and freedoms;

16. *Decides* to consider this matter at its sixty-second session, under the same agenda item;

17. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 14.]

58th meeting
20 April 2005
[Adopted by a recorded vote of 39 votes to 13,
with 1 abstention. See chap. XV.]

2005/50. Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994

The Commission on Human Rights,

Bearing in mind General Assembly resolution 47/75 of 14 December 1992 and Part II, paragraph 28, of the Vienna Declaration and Programme of Action (A/CONF.157/23),

Reaffirming its resolution 1995/32 of 3 March 1995, in which it established an open-ended intersessional working group with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on the Promotion and Protection of Human Rights, entitled "Draft United Nations declaration on the rights of indigenous peoples", for consideration and adoption by the General Assembly,

Bearing in mind General Assembly resolution 59/174 of 20 December 2004 and underlining the importance of concluding, as soon as possible, the draft United Nations declaration on the rights of indigenous people for consideration and adoption by the General Assembly,

Reaffirming in particular that the invitation contained in resolution 1995/32 was addressed to organizations of indigenous people seeking authorization to participate in the Working Group,

Recognizing that organizations of indigenous people have special knowledge and understanding of the current situation of the world's indigenous people and their human rights needs,

Recalling General Assembly resolution 49/214 of 23 December 1994, in which the Assembly encouraged the Commission to consider the draft declaration with the participation of representatives of indigenous people, on the basis of and in accordance with appropriate procedures to be determined by the Commission,

Welcoming the progress made in the process of drafting a declaration on the rights of indigenous people and emphasizing the importance and special nature of such a draft declaration as an instrument specifically for promoting the rights of indigenous people,

Encouraging Governments and organizations of indigenous people to take into account General Assembly resolution 59/174, to note the report of the United Nations High Commissioner for Human Rights (E/CN.4/2005/87) and to participate actively and in a spirit of compromise in the working group in order to present a draft United Nations declaration on the rights of indigenous people to the General Assembly, as a matter of priority, for consideration and adoption, *Recalling* the need for the Working Group to consider all aspects of the draft declaration, including its scope of application,

1. *Takes note* of the report of the Working Group (E/CN.4/2005/89 and Add.1 and 2) and welcomes the continuation and positive nature of the deliberations of the Working Group, in particular the measures taken to ensure effective input by organizations of indigenous people;

2. *Expresses its appreciation* for the work of Economic and Social Council in considering applications from organizations of indigenous people to participate in the working group under the procedures set out in the annex to Commission resolution 1995/32;

3. *Welcomes* the decisions of the Council approving the participation of organizations of indigenous people in the work of the working group and urges the Council to process all pending applications as soon as possible, taking strictly into account the procedures set out in the annex to Commission resolution 1995/32;

4. *Urges* all parties involved in the process of negotiation to do their utmost to carry out successfully the mandate of the working group and to present for adoption as soon as possible a final draft United Nations declaration on the rights of indigenous people;

5. *Recommends* that the working group meet for 10 working days prior to the sixty-second session of the Commission, the cost of the meeting to be met from within existing resources;

6. *Invites* the Chairperson-Rapporteur of the working group to undertake inquiries with the Office of the United Nations High Commissioner for Human Rights to determine the possibility of convening additional meetings of the working group, within existing resources, with a view to facilitating progress in drafting a declaration on the rights of indigenous people;

7. *Also invites* the Chairperson-Rapporteur of the working group and all interested parties to conduct broad informal intersessional consultations with a view to facilitating progress in concluding a declaration on the rights of indigenous people at the next session of the working group;

8. *Takes note* of the proposal raised during the resumed meeting of the tenth session of the Working Group, to hold a workshop with the participation of representatives of States, indigenous experts, internationally recognized academics, independent experts and civil society organizations, to be hosted and co-sponsored by the Government of Mexico, on issues related to the draft declaration with the purpose of promoting the rapprochement of positions of all partners involved, and invites the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to participate in this workshop;

9. *Encourages* organizations of indigenous people that are not already registered to participate in the working group and that wish to do so to apply for authorization in accordance with the procedures set out in the annex to Commission resolution 1995/32;

10. *Requests* the Working Group to submit a report for consideration by the Commission at its sixty-second session under the same agenda item;

11. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 15.]

58th meeting
20 April 2005
[Adopted by a recorded vote of 52 votes to none,
with 1 abstention. See chap. XV.]

2005/51. Human rights and indigenous issues

The Commission on Human Rights,

Bearing in mind that the Charter of the United Nations establishes as one of the purposes of the Organization the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights, that all are entitled to equal protection against any discrimination and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Guided by the relevant norms and standards of international human rights instruments, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Discrimination against Women,

Recalling with appreciation the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

Recalling the Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169), of the International Labour Organization,

Bearing in mind the recommendations of the World Conference on Human Rights held in Vienna in June 1993, *Recalling* the provisions relevant to the present resolution contained in the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1),

Recalling that the General Assembly proclaimed in its resolution 59/174 of 20 December 2004, the Second International Decade of the World's Indigenous People, which began on 1 January 2005, with the goal of further strengthening international cooperation for the solution of problems faced by indigenous people in such areas as culture, education, health, human rights, the environment and social and economic development, by means of action-oriented programmes and specific projects, increased technical assistance and relevant standard-setting activities,

Welcoming the progress made at the last session of the Open-ended working group to elaborate a draft United Nations declaration on the rights of indigenous people, emphasizing the importance of continuing to drive all efforts to finalize, through open and constructive dialogue, the draft United Nations declaration on the rights of indigenous peoples and urging all parties involved to present it for adoption as soon as possible,

Welcoming the important contributions made so far by the Permanent Forum on Indigenous Issues and its report on its third session (E/2004/43-E/C.19/2004/23) and recalling that the mandate of the Permanent Forum consists of discussing indigenous issues within the mandate of the Economic and Social Council relating to economic and social development, culture, the environment, education, health and human rights,

Taking into account the mandate of the Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights to review developments pertaining to the promotion and protection of their human rights and fundamental freedoms, with special attention to the evolution of standards concerning their rights,

Deeply concerned about the precarious levels of economic and social development that indigenous people endure in many parts of the world and the disparities in their situation in comparison to the overall population, as well as about the persistence of grave violations of their human rights,

Reaffirming the urgent need to recognize, promote and protect more effectively the human rights and fundamental freedoms of indigenous people,

Encouraged by the renewed commitment and growing interest of the international community to ensure the full respect and equal enjoyment by indigenous people of all human rights and fundamental freedoms, and noting in particular the vulnerable situation of those who could find themselves in situations of conflict,

Recalling its resolution 2004/62 of 21 April 2004,

1. *Welcomes* the report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (E/CN.4/2005/88 and Add.1 and 2 and Add.3 and Add.3/Corr.1 and Add.4), as well as the official visits he has made during the last year, and encourages Governments to respond positively to requests by the Special Rapporteur to visit their country;

2. *Encourages* the Special Rapporteur to continue to examine ways and means of overcoming existing obstacles to the full and effective protection of the human rights and fundamental freedoms of indigenous people, in conformity with his mandate, and to pay special attention to violations of the human rights and fundamental freedoms of indigenous children and women, and to take into account a gender perspective;

3. *Requests* the Special Rapporteur, in performing his work, to consider the recommendations of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on matters concerning his mandate, as well as the recommendations, observations and conclusions of the Committee on the Elimination of Racial Discrimination;

4. *Also requests* the Special Rapporteur, in carrying out his mandate and within the framework of the Universal Declaration of Human Rights and all other international human rights instruments, to continue requesting, receiving and exchanging information on violations of the human rights of indigenous people, wherever they may occur, from Governments, United Nations human rights treaty bodies, specialized agencies, special mechanisms of the Commission and the Sub-Commission on the Promotion and Protection of Human Rights, as well as from intergovernmental organizations, other relevant organizations of the United Nations system and civil society, including indigenous organizations, and to respond effectively to such information;

5. *Further requests* the Special Rapporteur to continue working on the topics included in his reports, in particular, those that impact on the situation of the human rights and fundamental freedoms of indigenous people, which may contribute to advancing the debate on fundamental issues of the draft United Nations declaration on the rights of indigenous people;

6. *Takes note* of the intention of the Special Rapporteur to devote his next report to the topics of constitutional reform, legislation and implementation of laws regarding the protection of rights of indigenous people and the effectiveness of their application;

7. *Also takes note* of the proposal raised during the resumed meeting of the tenth session of the Open-ended working group to elaborate a draft United Nations declaration on the rights of indigenous peoples, to hold a workshop with the participation of representatives of States, indigenous experts, internationally recognized academics, independent experts and civil society organizations, to be hosted and co-sponsored by the Government of Mexico, on issues related to the draft declaration, with the purpose of promoting the rapprochement of positions of all partners involved, and invites the Special Rapporteur to participate in this workshop;

8. *Notes with appreciation* the outcome of the Expert Seminar on Indigenous Peoples and Education (E/CN.4/2005/88/Add.4) organized by the Office of the United Nations High Commissioner for Human Rights and the United Nations Educational, Scientific and Cultural Organization with the participation of governmental, indigenous, non-governmental and independent experts, encourages the Special Rapporteur to continue developing his thematic work programme and invites all States to take into account his recommendations in the formulation of public policies on the subject;

9. *Requests* the Special Rapporteur to begin preparing a study regarding best practices carried out to implement the recommendations contained in his general and country reports and to submit a progress report to the Commission at its sixty-second session and the final study at its sixty-third session;

10. *Also requests* the Special Rapporteur to liaise with the Special Adviser of the Secretary-General on the Prevention of Genocide with regard to the protection of indigenous people from genocide and, together with other special procedures established by this Commission and relevant United Nations bodies, to facilitate consultation and exchange of information, in order to enable all involved actors to adopt necessary preventive measures in a timely manner;

11. *Invites* the Special Rapporteur to continue to carry out his task in coordination with the Permanent Forum on Indigenous Issues and the Working Group on Indigenous Populations and to take into account their recommendations relevant to his mandate;

12. *Requests* the Office of the High Commissioner to facilitate the attendance of the Special Rapporteur at the fourth annual session of the Permanent Forum on Indigenous Issues to be held at United Nations Headquarters in May 2005;

13. *Requests* all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, to furnish all information requested and to react promptly to his urgent appeals;

14. *Takes note with appreciation* of the intention of the Office of the High Commissioner and the Inter-parliamentary Union to organize, making use of existing financial resources and voluntary contributions, a seminar on constitutional reforms, legislation and implementation of laws regarding the rights of indigenous people and the effectiveness of their application, with the participation of indigenous and governmental and non-governmental experts, to assist the Special Rapporteur in examining the main topic of his annual report to the Commission in 2006;

15. *Encourages* the United Nations, including its specialized agencies, regional intergovernmental organizations, Governments, independent experts, interested institutions, non-governmental organizations and, in particular, indigenous people to cooperate to the fullest extent possible with the Special Rapporteur in the fulfilment of his mandate;

16. *Encourages* the World Summit on the Information Society to take indigenous issues duly into account in its declaration of principles and action plan and in all other relevant programmes to be adopted by the Summit in its second phase, to be held in Tunis in 2005;

17. *Urges* those States that have not yet done so to consider, as a matter of priority, ratifying or acceding to the Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169);

18. *Requests* the Special Rapporteur to submit a report on his activities to the General Assembly at its sixtieth session and to the Commission at its sixty-second session;

19. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the necessary human, technical and financial assistance to the Special Rapporteur for the effective fulfilment of his mandate;

20. *Decides* to continue consideration of this question at its sixty-second session, under the same agenda item.

58th meeting
20 April 2005
[Adopted without a vote. See chap. XV.]

2005/52. Protection of indigenous peoples in time of conflict

The Commission on Human Rights:

1. *Requests* the Secretary-General:

(*a*) To ensure that the Special Adviser for the Prevention of Genocide appointed under the Action Plan to Prevent Genocide takes into consideration the need to protect indigenous peoples and their territories;

(*b*) To ensure that, in situations where there are forces present under a United Nations mandate, they protect vulnerable indigenous peoples, their territories and objects indispensable to their survival;

(*c*) To ensure that the mandates of United Nations authorized operations include a requirement to protect indigenous populations and their territories;

2. *Requests* the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people:

(*a*) To liaise with the Special Adviser with regard to the protection of indigenous peoples from genocide;

(*b*) To develop an emergency response mechanism as part of his mandate.

58th meeting
20 April 2005
[Adopted by a recorded vote of 35 votes to 13,
with 4 abstentions. See chap. XV.]

2005/53. The work of the Sub-Commission on the Promotion and Protection of Human Rights

The Commission on Human Rights,

Recalling its previous relevant resolutions, in particular 2004/60 of 20 April 2004 and the resolutions identified therein, as well as the terms of reference of the Sub-Commission on the Promotion and Protection of Human Rights (formerly the Sub-Commission on the Prevention of Discrimination and Protection of Minorities) as set out in the relevant resolutions of the Commission on Human Rights, the Economic and Social Council, and the General Assembly,

Recalling also the report of the Intersessional open-ended working group on enhancing the effectiveness of the mechanisms of the Commission on Human Rights (E/CN.4/2000/112), and reaffirming Commission decision 2000/109 of 26 April 2000,

Recalling further the rules of procedure of the functional commissions of the Economic and Social Council and other decisions and practices relating thereto, and Sub-Commission decision 1999/114 of 26 August 1999 by which the Sub-Commission adopted guidelines for the application of the rules,

Bearing in mind the final working paper on the methods of work of the Sub-Commission (E/CN.4/Sub.2/1999/2),

Taking note of:

(*a*) The report of the Sub-Commission on its fifty-sixth session (E/CN.4/2005/2-E/CN.4/Sub.2/2004/48),

(*b*) The report of the Chairperson of the fifty-sixth session of the Sub-Commission (E/CN.4/2005/90),

1. *Reaffirms* its recognition of the valuable contribution made by the Sub-Commission, as a subsidiary body of the Commission, to the human rights work of the United Nations over the past 58 years;

2. *Recognizes* in particular the important contribution of the Sub-Commission and its thematic mechanisms to the development of a better understanding of human rights through the study of important issues, the elaboration of international human rights standards and the promotion and protection of human rights throughout the world, as well as the valuable contribution that Governments, intergovernmental organizations and non-governmental organizations have made to the success of the Sub-Commission;

3. *Decides* that the Sub-Commission can best assist the Commission by providing it with:

(*a*) Independent expert studies and working papers solely carried out by its members or alternates during their mandate, notwithstanding the completion of currently existing mandates;

(*b*) Recommendations based on, and after full consideration of, these studies;

(*c*) Studies, research and expert advice at the request of the Commission, including proposals confirmed by the Commission which have been suggested by treaty bodies or other United Nations human rights bodies;

4. *Welcomes* the actions taken by the Sub-Commission at its fifty-sixth session to respond to recommendations by the Commission for the initiation of working papers and new studies;

5. *Also welcomes* the attention given by the Sub-Commission to economic, social and cultural rights, as well as its continued attention to civil and political rights;

6. *Further welcomes* the improved working methods of the Sub-Commission at its last four sessions at which it:

(*a*) Reformed, improved and streamlined its agenda to seven items;

(*b*) Held a closed joint meeting with the Expanded Bureau of the sixtieth session of the Commission;

(*c*) Drafted many of its resolutions in closed session rather than attempting to do so in public sessions;

7. *Recalls* the report submitted by the Office of the High Commissioner pursuant to the request of the Commission in its resolution 2002/66 of 25 April 2002 on possible ways and means of addressing the issues raised by the Sub-Commission and of improving the Commission's action on proposals of the Sub-Commission (E/CN.4/2003/95) and of discussions in which the Bureau of the Commission studied further those proposals, and decides to continue consideration of possible ways and means of improving, as soon as possible, the Commission's prompt action on proposals of the Sub-Commission;

8. *Reiterates and reaffirms*:

(*a*) Its decision that the Sub-Commission should not adopt country-specific resolutions, decisions or Chairperson's statements and, in negotiating and adopting thematic resolutions or decisions, should refrain from including references to specific countries;

(*b*) That the Sub-Commission should continue to be able to debate country situations not being dealt with in the Commission, as well as urgent matters involving serious violations of human rights in any country, and that its discussions would be reflected in the summary records of its debates, which should continue to be forwarded to the Commission;

(*c*) That the Sub-Commission should not undertake any new activity without the Commission's approval, with the exception of the preparation of studies and research;

(*d*) That the role of the Sub-Commission is that of a "think tank", as confirmed by the Commission in decision 2000/109, and therefore the Sub-Commission should not attribute to itself monitoring functions, while reaffirming the content of paragraph 52 of the annex to its decision 2000/109;

9. *Recommends* that the Sub-Commission continue at its future sessions the successful innovations of the fifty-third session which were confirmed at the fifty-fourth, fifty-fifth and fifty-sixth sessions, in particular by:

(*a*) Having annual closed meetings with the Expanded Bureau of the sixty-first and subsequent sessions of the Commission, so as to exchange views aimed at improving cooperation between the two organs;

(*b*) Maintaining a streamlined agenda;

(*c*) Holding its discussions of its working rules, procedures and timetable in closed meeting;

(*d*) Drafting as many of its resolutions as possible in closed session, in view of the limited time available;

(*e*) Using the "question and answer" format and some expert panel discussions;

10. *Also recommends* that the Sub-Commission further improve its methods of work by:

(*a*) Focusing on its primary role as an advisory body to the Commission, specifically when its advice is requested by the Commission;

(*b*) Giving particular attention to the selection of studies specifically recommended by the Commission or proposals confirmed by the Commission which have been suggested by treaty bodies or other United Nations human rights bodies, at the same time focusing on how and when the implementation of existing standards can be improved;

(*c*) Respecting strictly the highest standards of impartiality and expertise and avoiding acts which would affect confidence in the independence of its members, in particular in situations where they could have a conflict of interest;

(*d*) Facilitating efficient and effective participation of non-governmental organizations;

(*e*) Giving full consideration to studies and working papers by special rapporteurs and its members before sending them to the Commission;

(*f*) Taking further steps to accomplish its work within a three-week session, while making efforts to avoid the scheduling of working groups and plenary sessions concurrently with each other;

(*g*) Making proposals to the Commission on how it might assist the Sub-Commission in improving its work, and vice versa;

(*h*) Focusing strictly on questions relating to human rights in accordance with its mandate;

(*i*) Avoiding duplication of its work with that being carried out by other competent bodies and mechanisms;

(*j*) Taking fully into account legal opinions addressed to the Sub-Commission by the Legal Counsel of the United Nations;

11. *Requests* States when nominating and electing members and alternates to the Sub-Commission:

(*a*) To be conscious of the strong concern to ensure that the body is independent and is seen to be so and, inter alia, to ensure that their nominees to the Sub-Commission are impartial and independent, free from conflict of interest, and, if elected, that the nominating States do not seek to unduly influence their work;

(*b*) To keep in mind the need to ensure universality, a balanced representation, as well as the benefits of continuity and the importance of renewal;

(*c*) To select members with acknowledged expertise in human rights;

(*d*) To submit nominations, if possible, at least two months prior to the beginning of the session at which they will be elected, so as to enable the members of the Commission thoroughly to assess the qualifications and the independence of the nominees;

(*e*) To refrain from seeking to unduly influence those who are already Sub-Commission members or alternates;

12. *Requests* the Office of the High Commissioner to ensure that all initiatives of the Sub-Commission with financial implication for the United Nations budgets, including from voluntary sources, are brought before the Commission for consideration;

13. *Also requests* the Office of the High Commissioner to submit to the Commission at its sixty-second session a comprehensive report on the administrative and programme budget of the Sub-Commission, as well as possible recommendations for strengthening and enhancing the Sub-Commission's budgetary planning and management;

14. *Invites* the Secretary-General to give support to the Sub-Commission, inter alia by making available documentation in good time before each session in the official languages of the United Nations and assisting the Sub-Commission in requests for information from Governments and intergovernmental and non-governmental organizations, and reiterates that such requests, like all requests for concrete measures, must first have been approved by the Commission;

15. *Recommends* that the Chairperson of the Sub-Commission or his/her representative attend the meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures of the Commission and the meeting of chairpersons of treaty bodies, so as to facilitate coordination between the Sub-Commission and other relevant bodies and procedures of the United Nations, in accordance with their respective mandates;

16. *Invites* the Chairperson of the sixty-first session of the Commission to address the Sub-Commission at the opening meeting of its fifty-seventh session and to inform it about the present resolution and the debate that took place on this subject at the sixty-first session of the Commission under agenda item 16;

17. *Invites* the Chairperson of the fifty-seventh session of the Sub-Commission to report to the Commission at its sixty-second session, including an assessment of how recent enhancements of the effectiveness of the Sub-Commission and of its mechanisms have worked in practice;

18. *Decides* to consider the issue of the work of the Sub-Commission at its sixty-second session under the relevant agenda item.

58th meeting
20 April 2005
[Adopted without a vote. See chap. XVI.]

2005/54. Enhancement of international cooperation in the field of human rights

The Commission on Human Rights,

Bearing in mind that among the purposes of the United Nations are those of developing friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples and taking other appropriate measures to strengthen universal peace, as well as achieving international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling the adoption of the United Nations Millennium Declaration by the General Assembly on 8 September 2000 and its own resolution 2004/63 of 21 April 2004 on the enhancement of international cooperation in the field of human rights,

Recalling also General Assembly resolution 54/113 of 10 December 1999 on the United Nations Year of Dialogue among Civilizations and the proclamation of the Global Agenda for Dialogue among Civilizations by the Assembly in its resolution 56/6 of 9 November 2001,

Recalling further the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held at Durban, South Africa, from 31 August to 8 September 2001, as well as other relevant international human rights conferences and their role in the enhancement of international cooperation in the field of human rights,

Reaffirming its commitment to promoting international cooperation, as set forth in the Charter of the United Nations, in particular Article 1, paragraph 3, as well as relevant provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/23), for enhancing genuine cooperation among Member States in the field of human rights, *Emphasizing* that the enhancement of international cooperation in the field of human rights is essential for the full achievement of the purposes of the United Nations, including the effective promotion and protection of all human rights,

Underlining that tolerance and respect for diversity and the universal promotion and protection of human rights are mutually supportive, and recognizing that tolerance and respect for diversity effectively promote and are supported by, inter alia, the fight against all kinds of racism, racial discrimination, xenophobia and intolerance, and the empowerment of women,

Reaffirming that dialogue among and within religions, cultures and civilizations, including in the field of human rights, could facilitate the promotion of a culture of tolerance and respect for diversity and contributes greatly to the enhancement of international cooperation in this field,

Bearing in mind the valuable contribution that dialogue among civilizations can make to an improved awareness and understanding of the common values shared by all humankind,

Emphasizing the need for the promotion and protection of all human rights to be guided by the principles of impartiality, objectivity and non-selectivity, in the spirit of constructive international dialogue and cooperation,

Underlining that mutual understanding, dialogue, cooperation, transparency and confidence-building are important elements in all the activities for the promotion and protection of human rights,

Reaffirming the importance of the enhancement of international cooperation and equal participation of all States in promoting and encouraging respect for human rights and in responding to human rights challenges through the strengthening of existing international human rights mechanisms,

Reaffirming also that political considerations should not undermine the proper functioning of international human rights mechanisms and the effective fulfilment of their mandates in the promotion and protection of human rights,

Expressing its conviction that an unbiased and fair approach to human rights issues contributes to the promotion of international cooperation as well as to the effective promotion, protection and realization of human rights and fundamental freedoms,

Bearing in mind that all human rights, including the right to development, are universal, indivisible, interdependent and interrelated, and thus should be treated equally in the course of international cooperation,

1. *Reaffirms* that it is one of the purposes of the United Nations and the responsibility of all Member States to promote, protect and encourage respect for human rights and fundamental freedoms through, inter alia, international cooperation;

2. *Considers* that international cooperation in this field, in conformity with the purposes and principles set out in the Charter of the United Nations and international law, should make an effective and practical contribution to the urgent task of preventing violations of human rights and of fundamental freedoms for all;

3. *Reaffirms* that the promotion, protection and full realization of all human rights and fundamental freedoms should be guided by the principles of universality, non-selectivity, impartiality, objectivity and transparency, in a manner consistent with the purposes and principles of the Charter and should not be used for political ends;

4. *Recognizes* that, in addition to their separate responsibilities to their individual societies, States have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level;

5. *Urges* all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;

6. *Calls upon* Member States, specialized agencies and intergovernmental organizations to continue to carry out a constructive dialogue and consultations for the enhancement of understanding and the promotion and protection of all human rights and fundamental freedoms, and encourages non-governmental organizations to contribute actively to this endeavour;

7. *Invites* States and relevant United Nations human rights mechanisms and procedures as well as relevant regional and multilateral organizations to continue to pay attention to the importance of mutual cooperation, understanding and dialogue in ensuring the promotion and protection of all human rights;

8. *Decides* to continue its consideration of this question, as a matter of priority, at its sixty-second session.

58th meeting
20 April 2005
[Adopted without a vote. See chap. XVII.]

2005/55. Human rights and international solidarity

The Commission on Human Rights,

Underlining that the processes of promoting and protecting human rights should be conducted in conformity with the purposes and principles of the Charter of the United Nations and international law,

Reaffirming that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing,

Recalling that at the World Conference on Human Rights, held in June 1993, States pledged to cooperate with each other in ensuring development and eliminating obstacles to development, and stressed that the international community should promote effective international cooperation for the realization of the right to development and the elimination of obstacles to development, *Reaffirming* that article 4 of the Declaration on the Right to Development states that sustained action is required to promote more rapid development of developing countries and, as a complement to the efforts of developing countries, effective international cooperation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development,

Taking into account that article 2 of the International Covenant on Economic, Social and Cultural Rights states that each State party to the Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant by all appropriate means, including particularly the adoption of legislative measures,

Persuaded that social development can be promoted by peaceful coexistence, friendly relations and cooperation among States with different social, economic or political systems,

Reaffirming that the widening gap between the economically developed and developing countries is unsustainable and that it impedes the realization of human rights in the international community, and makes it all the more imperative for every nation, according to its capacities, to make the maximum possible effort to close this gap,

Expressing concern at the fact that the immense benefits resulting from the process of globalization and economic interdependence have not reached all countries, communities and individuals, and at the increasing marginalization from their benefits of several countries, particularly the least developed and the African countries,

Expressing its deep concern over the number and scale of natural disasters, diseases and agricultural pests and their increasing impact in recent years, which have resulted in a massive loss of life and long-term negative social, economic and environmental consequences for vulnerable societies throughout the world, in particular in developing countries,

Reaffirming the crucial importance of increasing the resources allocated for official development assistance, and recalling the pledge of the industrialized countries to allocate 0.7 per cent of their gross national product for official development assistance,

Recognizing the need for new and additional resources to finance the development programmes of developing countries,

Determined to take new steps forward in the commitment of the international community with a view to achieving substantial progress in human rights endeavours by an increased and sustained effort of international cooperation and solidarity,

Welcoming the solidarity and humanity expressed by the international community to the victims and the Governments of those States that suffered huge losses of life and socio-economic and environmental damage from the unprecedented tsunami disaster that struck the Indian Ocean and South-East Asian regions on 26 December 2004, *Asserting* the necessity for establishing new, equitable and global links of partnership and intra-generational solidarity, and for promoting intergenerational solidarity for the perpetuation of humankind,

Recognizing that the attention paid to the importance of international solidarity as a vital component of the efforts of developing countries towards the realization of the right to development of their peoples and the promotion of the full enjoyment of economic, social and cultural rights by everyone has been insufficient,

Resolved to strive to ensure that the present generations are fully aware of their responsibilities towards future generations, and that a better world is possible for present and future generations,

1. *Reaffirms* the interdependence between the concepts of democracy, development, and respect for human rights and fundamental freedoms;

2. *Welcomes* the recognition set forth in the declaration adopted by the Heads of State and Government at the Millennium Summit of the United Nations of the fundamental value of solidarity to international relations in the twenty-first century, in stating that global challenges must be managed in a way that distributes costs and burdens fairly, in accordance with basic principles of equity and social justice, and that those who suffer, or who benefit least, deserve help from those who benefit most;

3. *Expresses its determination* to contribute towards the solution of current world problems through increased international cooperation, to create such conditions as will ensure that the needs and interests of future generations are not jeopardized by the burden of the past, and to hand on a better world to future generations;

4. *Urges* the international community to consider urgently concrete measures to promote and consolidate international assistance to developing countries in their endeavours for development and for the promotion of conditions that make possible the full realization of all human rights;

5. *Recognizes* that the so-called "third-generation rights" closely interrelated to the fundamental value of solidarity need further progressive development within the United Nations human rights machinery in order to be able to respond to the increasing challenges of international cooperation in this field;

6. *Decides*, taking into account the urgent need to further develop guidelines, standards, norms and principles with a view to promoting and protecting rights closely interrelated to the fundamental value of solidarity, to appoint an independent expert on human rights and international solidarity for a period of three years;

7. *Requests* the independent expert to study the issue and prepare a draft declaration on the right of peoples to international solidarity;

8. *Also requests* the independent expert to take into account the outcomes of all major United Nations and other global summits and ministerial meetings in the economic and social fields and to seek views and contributions from Governments, United Nations agencies, other relevant international organizations and non-governmental organizations in the discharge of his/her mandate;

9. *Further requests* the independent expert to report annually to the Commission on the progress made in the fulfilment of his/her mandate;

10. *Decides* to continue its examination of this issue at the sixty-second session under the same agenda item;

11. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 17.]

58th meeting
20 April 2005
[Adopted by a recorded vote of 37 votes to 15,
with 1 abstention. See chap. XVII.]

2005/56. Promotion of peace as a vital requirement for the full enjoyment of all human rights by all

The Commission on Human Rights,

Recalling all previous resolutions on this issue,

Recalling also resolutions 1996/16 of 29 August 1996 and 1997/36 of 28 August 1997 of the Sub-Commission on the Promotion and Protection of Human Rights, entitled "International peace and security as an essential condition for the enjoyment of human rights, above all the right to life",

Noting General Assembly resolution 39/11 of 12 November 1984, entitled "Declaration of the Right of Peoples to Peace", and the United Nations Millennium Declaration,

Determined to foster strict respect for the purposes and principles enshrined in the Charter of the United Nations,

Bearing in mind that one of the purposes of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, *Underlining*, in accordance with the purposes and principles of the United Nations, its full and active support for the United Nations and for the enhancement of its role and effectiveness in strengthening international peace, security and justice and in promoting the solution of international problems, as well as the development of friendly relations and cooperation among States,

Reaffirming the obligation of all States to settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered,

Emphasizing its objective of promoting better relations among all States and contributing to setting up conditions in which their people can live in true and lasting peace, free from any threat to or attempt against their security,

Reaffirming the obligation of all States to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Reaffirming also its commitment to peace, security and justice and the continuing development of friendly relations and cooperation among States,

Rejecting the use of violence in pursuit of political aims and stressing that only peaceful political solutions can assure a stable and democratic future for all peoples around the world,

Reaffirming the importance of ensuring respect for the principles of sovereignty, territorial integrity and political independence of States and non-intervention in matters which are essentially within the domestic jurisdiction of any State, in accordance with the Charter and international law,

Also reaffirming that all peoples have the right to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Further reaffirming the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

Recognizing that peace and development are mutually reinforcing, including in the prevention of armed conflict,

Affirming that human rights include social, economic and cultural rights and the right to peace, a healthy environment and development, and that development is in fact the realization of these rights,

Underlining that the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental rights, is contrary to the Charter and is an impediment to the promotion of world peace and cooperation, *Recalling* that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized,

Convinced of the aim of creating conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples,

Also convinced that life without war is the primary international prerequisite for the material well-being, development and progress of countries, and for the full implementation of the rights and fundamental human freedoms proclaimed by the United Nations,

Further convinced that international cooperation in the field of human rights contributes to creating an international environment of peace and stability,

1. *Stresses* that peace is a vital requirement for the promotion and protection of all human rights for all;

2. *Also stresses* that the deep fault line that divides human society between the rich and the poor, and the ever-increasing gap between the developed and developing worlds pose a major threat to global prosperity, security and stability;

3. *Solemnly declares* that the peoples of our planet have a sacred right to peace;

4. *Also solemnly declares* that the preservation of peace and its promotion constitute a fundamental obligation of each State;

5. *Emphasizes* that the preservation of peace and its promotion demand that the policies of States be directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the use or threat of use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations;

6. *Affirms* that all States should promote the establishment, maintenance and strengthening of international peace and security and an international system based on respect of the principles enshrined in the Charter and the promotion of all human rights and fundamental freedoms, including the right to development and the right of peoples to self-determination;

7. *Urges* all States to respect and to put into practice the principles and purposes of the Charter in their relations with all other States, irrespective of their political, economic or social systems, as well as of their size, geographical location or level of economic development;

8. *Reaffirms* the duty of all States, in accordance with the principles of the Charter, to use peaceful means to settle any dispute to which they are parties and the continuance of which is likely to endanger the maintenance of international peace and security, and encourages States to settle their disputes as early as possible, as a vital requirement for the promotion and protection of all human rights of everyone and all peoples;

9. *Calls upon* the United Nations High Commissioner for Human Rights to carry out a constructive dialogue and consultations with Member States, specialized agencies and intergovernmental organizations on how the Commission on Human Rights could work for the promotion of an international environment conducive to the full realization of the right of peoples to peace, and encourages non-governmental organizations to contribute actively to this endeavour;

10. *Invites* States and relevant United Nations human rights mechanisms and procedures to continue to pay attention to the importance of mutual cooperation, understanding and dialogue in ensuring the promotion and protection of all human rights;

11. *Decides* to continue considering the issue at its sixty-second session under the same agenda item.

58th meeting
20 April 2005
[Adopted by a recorded vote of 32 votes to 15,
with 6 abstentions. See chap. XVII.]

2005/57. Promotion of a democratic and equitable international order

The Commission on Human Rights,

Recalling all previous resolutions of the General Assembly and the Commission on this issue,

Reaffirming the commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law,

Affirming that the enhancement of international cooperation for the promotion and protection of all human rights should continue to be carried out in full conformity with the purposes and principles of the Charter and international law, as set forth in Articles 1 and 2 of the Charter, and, inter alia, with full respect for sovereignty, territorial integrity, political independence, the non-use of force or the threat of force in international relations and non-intervention in matters that are essentially within the domestic jurisdiction of any State,

Recalling the Preamble to the Charter, in particular the determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women and of nations large and small,

Reaffirming that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized,

Reaffirming also the determination expressed in the Preamble to the Charter to save succeeding generations from the scourge of war, to establish conditions under which justice and respect for obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom, to practice tolerance and good neighbourliness and to employ international machinery for the promotion of the economic and social advancement of all peoples,

Stressing that the responsibility for managing worldwide economic and social development, as well as threats to international peace and security, must be shared among the nations of the world and should be exercised multilaterally, and that in this regard the central role must be played by the United Nations, as the most universal and representative organization in the world,

Emphasizing that the effective implementation of the outcomes of the United Nations Millennium Summit and of other major United Nations summits and conferences will require political will to implement the commitments undertaken, in particular in making available the means for implementation,

Considering the major changes taking place on the international scene and the aspirations of all peoples for an international order based on the principles enshrined in the Charter, including promoting and encouraging respect for human rights and fundamental freedoms for all and respect for the principle of equal rights and self-determination of peoples, peace, democracy, justice, equality, the rule of law at the national and international levels, pluralism, development, better standards of living and international solidarity,

Considering also that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Reaffirming that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing, and that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives,

Emphasizing that democracy is not only a political concept but also has economic and social dimensions,

Recognizing that democracy, respect for all human rights, including the right to development, transparent and accountable governance and administration in all sectors of society, and effective participation by civil society are an essential part of the necessary foundations for the realization of social and people-centred sustainable development,

Taking into account that, without accelerated progress towards education for all, national and internationally agreed targets for poverty reduction will not be achieved and inequalities between countries and within societies will widen,

Recognizing that the international community should promote effective international cooperation, as well as equitable economic relations and a favourable economic environment at the international level, for the realization of the right to development and the elimination of obstacles to development, *Reaffirming* the crucial importance of increasing the resources allocated for official development assistance, and recalling the pledge of the industrialized countries to allocate 0.7 per cent of their gross national product for official development assistance,

Reaffirming also the importance of good governance at the international level through democratization and transparency and accountability in international economic and financial decision-making in all forums and at all levels with the full and effective participation of all countries,

Noting with concern that racism, racial discrimination, xenophobia and related intolerance may be aggravated by, inter alia, inequitable distribution of wealth, marginalization and social exclusion,

Underlining that it is an imperative for the international community to ensure that globalization becomes a positive force for all the world's people, and that only through broad and sustained efforts, including policies and measures at the international levels that correspond to the needs of developing countries, can globalization be made fully inclusive and equitable,

Stressing that efforts to make globalization fully inclusive and equitable must include policies and measures at the global level that correspond to the needs of developing countries and economies in transition and are formulated and implemented with their effective participation,

Having listened to the peoples of the world and recognizing their aspirations to justice, to equality of opportunity for all and everyone, and to the enjoyment of their human rights, including the right to development, to live in peace and freedom and to equal participation without discrimination in economic, social, cultural, civil and political life,

Resolved to take all measures within its power to secure a democratic and equitable international order,

1. *Affirms* that everyone and every people have the right to a democratic and equitable international order;

2. *Also affirms* that a democratic and equitable international order fosters the full realization of all human rights for all;

3. *Calls upon* all Member States to fulfil their commitment expressed in September 2001 in Durban, South Africa, during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance to maximize the benefits of globalization through, inter alia, the strengthening and enhancement of international cooperation to increase equality of opportunities for trade, economic growth and sustainable development, global communications through the use of new technologies and increased intercultural exchange through the preservation and promotion of cultural diversity, and reiterates that only through broad and sustained efforts to create a shared future based upon our common humanity, and all its diversity, can globalization be made fully inclusive and equitable;

4. *Affirms* that a democratic and equitable international order requires, inter alia, the realization of the following:

(*a*) The right of all peoples to self-determination, by virtue of which they can freely determine their political status and freely pursue their economic, social and cultural development;

(*b*) The right of peoples and nations to permanent sovereignty over their natural wealth and resources;

(*c*) The right of every human person and all peoples to development, as a universal and inalienable right and an integral part of fundamental human rights;

(*d*) The right of all peoples to peace;

(*e*) The right to an international economic order based on equal participation in the decision-making process, interdependence, mutual interest, international solidarity and cooperation among all States;

(*f*) International solidarity, as a fundamental value by virtue of which global challenges must be managed in a way that distributes the costs and burdens fairly in accordance with basic principles of equity and social justice, ensuring that those who suffer or who benefit least receive help from those who benefit most;

(*g*) The promotion and consolidation of transparent, democratic, just and accountable international institutions in all areas of cooperation, in particular through the implementation of the principles of full and equal participation in their respective decision-making mechanisms;

(*h*) The right to equitable participation of all, without any discrimination, in domestic as well as global decision-making;

(*i*) The principle of equitable regional and gender-balanced representation in the composition of the staff of the United Nations system;

(*j*) The promotion of a free, just, effective and balanced international information and communication order, based on international cooperation for the establishment of a new equilibrium and greater reciprocity in the international flow of information, in particular correcting the inequalities in the flow of information to and from developing countries;

(*k*) The promotion of an inclusive global information society directed towards bridging the digital divide, promoting access to information and communication technologies, creating digital opportunities, and benefiting from the potential offered by these technologies;

(*l*) Respect for cultural diversity and the cultural rights of all, since this enhances cultural pluralism, dialogue among civilizations, contributes to a wider exchange of knowledge and understanding of cultural backgrounds, advances the application and enjoyment of universally accepted human rights across the world and fosters stable, friendly relations among peoples and nations worldwide;

(*m*) The right of every person and all peoples to a healthy environment;

(*n*) The promotion of equitable access to benefits from the international distribution of wealth through enhanced international cooperation, in particular in international economic, commercial and financial relations;

(*o*) The enjoyment by everyone of ownership of the common heritage of mankind in connection to a public right of access to culture;

5. *Stresses* the importance of preserving the rich and diverse nature of the international community of nations and peoples, as well as respect for national and regional particularities and various historical, cultural and religious backgrounds, in the enhancement of international cooperation in the field of human rights;

6. *Also stresses* that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis, and reaffirms that while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms;

7. *Urges* all actors on the international scene to build an international order based on inclusion, justice, peace, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;

8. *Appeals* to all Governments to step up their efforts to eradicate illiteracy and to direct education towards the full development of the human personality and to the strengthening of respect for all human rights and fundamental freedoms;

9. *Expresses its rejection* of unilateralism and stresses its commitment to multilateralism and multilaterally agreed solutions, in accordance with the Charter of the United Nations and international law, as the only reasonable method of addressing international problems;

10. *Recalls* the proclamation by the General Assembly of its determination to work urgently for the establishment of an international economic order based on equity, sovereign equality, interdependence, common interest and cooperation among all States, irrespective of their economic and social systems, which shall correct inequalities and redress existing injustices, make it possible to eliminate the widening gap between the developed and the developing countries, and ensure steadily accelerating economic and social development and peace and justice for present and future generations;

11. *Reaffirms* that the international community should devise ways and means to remove current obstacles and meet the challenges to the full realization of all human rights and to prevent the continuation of human rights violations resulting there from throughout the world;

12. *Urges* States to continue their efforts, through enhanced international cooperation, towards the establishment of a democratic and equitable international order;

13. *Requests* the human rights treaty bodies, the Office of the United Nations High Commissioner for Human Rights and the mechanisms of the Commission and the Sub-Commission on the Promotion and Protection of Human Rights to pay due attention, within their respective mandates, to the present resolution and to make contributions towards its implementation;

14. *Requests* the Secretary-General to bring the present resolution to the attention of Member States, United Nations organs, bodies and components, intergovernmental organizations, in particular the Bretton Woods institutions, and non-governmental organizations and to disseminate it on the widest possible basis;

15. *Decides* to continue consideration of the matter at its sixty-second session under the same agenda item.

58th meeting
20 April 2005
[Adopted by a recorded vote of 32 votes to 15,
with 6 abstentions. See chap. XVII.]

2005/58. Development of public information activities in the field of human rights, including the World Public Information Campaign on Human Rights

The Commission on Human Rights,

Recalling its resolution 2003/62 of 24 April 2003,

Reaffirming that activities to improve public knowledge in the field of human rights are essential to the fulfilment of the purposes and principles of the United Nations set out in Article 1, paragraph 3, of the Charter of the United Nations, and that carefully designed programmes of teaching, education and information are essential to the achievement of lasting respect for human rights and fundamental freedoms,

Bearing in mind General Assembly resolution 926 (X) of 14 December 1955, in which the Assembly established the United Nations programme of advisory services in the field of human rights with a view to supporting, inter alia, national capacities for human rights education and public information,

Recalling General Assembly resolution 43/128 of 8 December 1988, by which the Assembly launched the World Public Information Campaign on Human Rights, and other Assembly resolutions and its own resolutions on this subject, *Noting* General Assembly resolution 59/113 of 10 December 2004, in which the Assembly proclaimed the World Programme for Human Rights Education, structured in consecutive phases, to begin on 1 January 2005, in order to advance the implementation of human rights education programmes in all sectors,

Mindful of the fact that the United Nations High Commissioner for Human Rights, in accordance with her mandate as established by General Assembly resolution 48/141 of 20 December 1993, is responsible, inter alia, for the provision of advisory services and technical cooperation at the request of States, as well as for the coordination of United Nations education and public information programmes in the field of human rights,

Recognizing the significant effect of United Nations initiatives on public information activities in the field of human rights, in particular those undertaken by the Office of the United Nations High Commissioner for Human Rights, particularly its field offices, and by the Department of Public Information of the Secretariat, and recognizing also the key role that United Nations country teams can play in this regard,

Welcoming the increased efforts undertaken by the Office of the High Commissioner to disseminate human rights information through its web site*, its publications and its external relations programmes, and welcoming also the efforts of the Department of Public Information with respect to the provision of computer-accessible information on human rights,

Noting the valuable role that non-governmental organizations can play in this endeavour,

1. *Takes note with appreciation* of the report of the Secretary-General on the development of public information activities in the field of human rights, including the World Public Information Campaign on Human Rights (E/CN.4/2005/92);

2. *Also takes note with appreciation* of the report of the United Nations High Commissioner for Human Rights on progress made towards the implementation of Commission resolution 2004/71 on the follow-up to the United Nations Decade for Human Rights Education, 1995-2004, including the proclamation of the World Programme on Human Rights Education (E/CN.4/2005/98);

3. *Encourages* the Office of the High Commissioner, within existing overall United Nations resources, through its programme of advisory services and technical cooperation in the field of human rights, and other international and regional intergovernmental organizations to develop targeted training manuals for professional audiences, as well as training programmes and handbooks for human rights field officers and for human rights field monitors, and to continue to support, inter alia, national capacities for human rights education and public information, with specific attention to women's human rights;

4. *Urges* the Department of Public Information, in cooperation with the Office of the High Commissioner, to continue, within existing overall United Nations resources, to utilize fully and effectively the United Nations information centres, including the regional

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* http://www.ohchr.org.

information centres and United Nations field presences, particularly those of the Office of the High Commissioner, for the purpose of disseminating, within their designated areas of activity, basic information and reference materials on human rights and fundamental freedoms in the official languages of the United Nations and in the relevant national and local languages;

5. *Stresses* the importance of an effective and comprehensive international strategy to increase public awareness of human rights through the media and, in particular, to improve effective media strategies;

6. *Welcomes* the Declaration of Principles and the Plan of Action adopted at the first phase of the World Summit on the Information Society with the aim of better promoting the goals of the United Nations Millennium Declaration;

7. *Calls upon* Governments, in accordance with their national conditions, to accord priority to the dissemination in their relevant national and local languages of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other human rights instruments, human rights materials and training manuals, as well as reports of States parties under the human rights treaties, and to provide training, education and information in those languages on the practical ways in which national and international institutions and procedures may be utilized to ensure the effective implementation of those instruments;

8. *Invites* all Governments to consider the revised draft plan of action for the first phase (2005-2007) of the World Programme for Human Rights Education (A/59/525/Rev.1) with a view to its prompt adoption by the General Assembly and subsequent dissemination and implementation, inter alia through public information activities, in consultation with national human rights institutions and relevant non-governmental organizations, as well as with the assistance of relevant organs, bodies and agencies of the United Nations system and other international and regional intergovernmental and non-governmental organizations;

9. *Encourages* Governments to contribute to the further development of the website of the Office of the High Commissioner for Human Rights, in particular with respect to the dissemination of human rights education and training materials and tools, and to continue to favour the expansion, within existing overall United Nations resources, of public information activities of the Office;

10. *Also encourages* Governments, regional organizations and intergovernmental and non-governmental organizations to explore the potential support and contribution to human rights education and public information by all relevant partners, including the private sector, development, trade and financial institutions and the media, and to seek their cooperation in the development of human rights education and public information strategies;

11. *Requests* the Secretary-General to make available adequate resources from within the regular budget of the United Nations in order to allow the Office of the High Commissioner and the Department of Public Information to implement fully their respective programmes;

12. *Also requests* the Secretary-General to submit, from within existing overall United Nations resources, to the Commission at its sixty-third session a report on public information activities in the field of human rights, including those undertaken by relevant United Nations field presences, particularly those of the Office of the High Commissioner;

13. *Decides* to continue its consideration of this question at its sixty-third session under the same agenda item, in connection with the World Programme for Human Rights Education.

58th meeting
20 April 2005
[Adopted without a vote. See chap. XVII.]

2005/59. The question of the death penalty

The Commission on Human Rights,

Recalling article 3 of the Universal Declaration of Human Rights, which affirms the right of everyone to life, convinced that the abolition of the death penalty is essential for the protection of this right and recalling article 6 of the International Covenant on Civil and Political Rights and articles 6 and 37 (*a*) of the Convention on the Rights of the Child,

Taking note that the Second Optional Protocol to the International Covenant on Civil and Political Rights provides that no one within the jurisdiction of a State party shall be executed and that each State party shall take all necessary measures to abolish the death penalty within its jurisdiction,

Recalling the entry into force, on 1 July 2003, of Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), concerning the abolition of the death penalty in all circumstances,

Recalling also its previous resolutions in which it expressed its conviction that the abolition of the death penalty contributes to the enhancement of human dignity and to the progressive development of human rights,

Welcoming the exclusion of capital punishment from the penalties that the International Criminal Tribunal for the Former Yugoslavia, the International Tribunal for Rwanda and the International Criminal Court are authorized to impose,

Welcoming also the abolition of the death penalty in some States since the last session of the Commission and decisions taken in other States that restrict the use of the death penalty, inter alia through excluding certain categories of persons or offences from its application,

Commending States that have recently acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights,

Welcoming the fact that many countries that still retain the death penalty in their penal legislation are applying a moratorium on executions, and also welcoming the regional initiatives aimed at the establishment of a moratorium on executions and the abolition of the death penalty, *Reaffirming* the safeguards guaranteeing protection of the rights of those facing the death penalty, set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984, and the provisions regarding the implementation of the guidelines contained in Council resolutions 1989/64 of 24 May 1989 and 1996/15 of 23 July 1996,

Reaffirming also resolution 2000/17 of 17 August 2000 of the Sub-Commission on the Promotion and Protection of Human Rights on international law and the imposition of the death penalty on those aged under 18 at the time of the commission of the offence,

Deeply concerned about the recent lifting of moratoriums on executions in several countries,

Noting the consideration of issues relating to the question of the death penalty by the Human Rights Committee,

Welcoming the efforts of various sectors of civil society at the national and international levels to achieve the abolition of the death penalty,

1. *Expresses its concern* at the continuing use of the death penalty around the world, alarmed in particular at its application after trials that do not conform to international standards of fairness and that several countries impose the death penalty in disregard of the limitations set out in the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child and of the safeguards guaranteeing protection of the rights of those facing the death penalty;

2. *Condemns* the continuing application of the death penalty on the basis of any discriminatory legislation, policies or practices;

3. *Condemns also* cases in which women are subjected to the death penalty on the basis of gender-discriminatory legislation, policies or practices and the disproportionate use of the death penalty against persons belonging to national or ethnic, religious and linguistic minorities;

4. *Welcomes* the seventh quinquennial report of the Secretary-General on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty (E/2005/3), submitted in accordance with Economic and Social Council resolutions 1745 (LIV) of 16 May 1973, 1995/57 of 28 July 1995 and Council decision 2004/242 of 21 July 2004, which concludes that there is an encouraging trend towards the abolition and restriction of the use of the death penalty in most countries, but that much remains to be done in the implementation of the aforementioned safeguards in those countries that retain it;

5. *Calls upon* all States that still maintain the death penalty:

(*a*) To abolish the death penalty completely and, in the meantime, to establish a moratorium on executions;

(*b*) Progressively to restrict the number of offences for which the death penalty may be imposed and, at the least, not to extend its application to crimes to which it does not at present apply;

(*c*) To make available to the public information with regard to the imposition of the death penalty and to any scheduled execution;

(*d*) To provide to the Secretary-General and relevant United Nations bodies information relating to the use of capital punishment and the observance of the safeguards guaranteeing protection of the rights of those facing the death penalty;

6. *Calls upon* all States parties to the International Covenant on Civil and Political Rights that have not yet done so to consider acceding to or ratifying the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty;

7. *Urges* all States that still maintain the death penalty:

(*a*) Not to impose it for crimes committed by persons below 18 years of age;

(*b*) To exclude pregnant women and mothers with dependent infants from capital punishment;

(*c*) Not to impose the death penalty on a person suffering from any mental or intellectual disabilities or to execute any such person;

(*d*) Not to impose the death penalty for any but the most serious crimes and only pursuant to a final judgement rendered by an independent and impartial competent court, and to ensure the right to a fair trial and the right to seek pardon or commutation of sentence;

(*e*) To ensure that all legal proceedings, including those before special tribunals or jurisdictions, and particularly those related to capital offences, conform to the minimum procedural guarantees contained in article 14 of the International Covenant on Civil and Political Rights;

(*f*) To ensure also that the notion of "most serious crimes" does not go beyond intentional crimes with lethal or extremely grave consequences and that the death penalty is not imposed for non-violent acts such as financial crimes, religious practice or expression of conscience and sexual relations between consenting adults, nor as a mandatory sentence;

(*g*) To withdraw and/or not to enter any new reservations under article 6 of the Covenant that may be contrary to the object and purpose of the Covenant, given that article 6 enshrines the minimum rules for the protection of the right to life and the generally accepted standards in this area;

(*h*) To observe the safeguards guaranteeing protection of the rights of those facing the death penalty and to comply fully with their international obligations, in particular with those under article 36 of the Vienna Convention on Consular Relations, particularly the right to receive information on consular assistance within the context of a legal procedure, as affirmed by the jurisprudence of the International Court of Justice and confirmed in recent relevant judgements;

(*i*) To ensure that, where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering and shall not be carried out in public or in any other degrading manner, and to ensure that any application of particularly cruel or inhuman means of execution, such as stoning, be stopped immediately;

(*j*) Not to execute any person as long as any related legal procedure, at the international or at the national level, is pending;

8. *Calls upon* States that no longer apply the death penalty but maintain it in their legislation to abolish it;

9. *Calls upon* States that have recently lifted or announced the lifting de facto or de jure of moratoriums on executions once again to commit themselves to suspend such executions;

10. *Requests* States that have received a request for extradition on a capital charge to reserve explicitly the right to refuse extradition in the absence of effective assurances from relevant authorities of the requesting State that the death penalty will not be carried out, and calls upon States to provide such effective assurances if requested to do so, and to respect them;

11. *Requests* the Secretary-General to submit to the Commission at its sixty-second session, in consultation with Governments, specialized agencies and intergovernmental and non-governmental organizations, a yearly supplement to his quinquennial report on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, paying special attention to the imposition of the death penalty on persons younger than 18 years of age at the time of the offence and on persons suffering from any mental or intellectual disabilities;

12. *Decides* to continue consideration of the matter at its sixty-second session under the same agenda item.

58th meeting
20 April 2005
[Adopted by a recorded vote of 26 votes to 17,
with 10 abstentions. See chap. XVII.]

2005/60. Human rights and the environment as part of sustainable development

The Commission on Human Rights,

Recalling its resolution 2003/71 of 25 April 2003 and its decision 2004/119 of 21 April 2004,

Recalling the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), and the relevant provisions of International Covenants on Human Rights,

Recalling the extensive work, the reports and resolutions adopted by the Commission and human rights treaty bodies on issues relevant to environmental protection and sustainable development, *Recalling also* the Declaration of the United Nations Conference on the Human Environment of 1972 (Stockholm Declaration) (A/CONF.48/14/Rev.1 and Corr.1), the Rio Declaration on Environment and Development (A/CONF.151/26/Rev.1, vol. I and Corr.1, resolution 1, annex I), Agenda 21 (ibid., annex II), adopted on 14 June 1992 by the United Nations Conference on Environment and Development and the Johannesburg Declaration on Sustainable Development (A/CONF.199/20 and Corr.1, chap. I, resolution 1, annex) and the Johannesburg Plan of Implementation of the World Summit on Sustainable Development (ibid., resolution 2, annex), adopted by the World Summit for Sustainable Development in September 2002, and welcoming all efforts, at the national, regional and international levels, towards their implementation,

Bearing in mind the goals and targets of the United Nations Millennium Declaration and the United Nations overarching agenda, including poverty eradication, human rights, sustainable development and peace-building,

Conscious of the mandate of the Commission on Sustainable Development to promote the implementation of Agenda 21 and the follow-up to the World Summit on Sustainable Development, as well as of the important work undertaken on environment issues by the United Nations Environment Programme and other relevant forums,

Taking note that respect for human rights can contribute to sustainable development, including its environmental component,

Considering that environmental damage, including that caused by natural circumstances or disasters, can have potentially negative effects on the enjoyment of human rights and on a healthy life and a healthy environment,

Considering also that protection of the environment and sustainable development can also contribute to human well-being and potentially to the enjoyment of human rights,

Recalling that everyone has the right to enjoy the benefits of scientific progress and its applications, as reflected in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights,

Welcoming actions taken by States, such as legal measures and public awareness activities, that promote and protect human rights and that also assist in the promotion of environmental protection and sustainable development,

1. *Takes note* of the report of the Secretary-General on human rights and the environment as part of sustainable development (E/CN.4/2005/96);

2. *Reaffirms* that peace, security, stability and respect for human rights and fundamental freedoms, including the right to development, as well as respect for cultural diversity are essential for achieving sustainable development and ensuring that sustainable development benefits all, as set forth in the Plan of Implementation of the World Summit on Sustainable Development;

3. *Calls upon* States to take all necessary measures to protect the legitimate exercise of everyone's human rights when promoting environmental protection and sustainable development and reaffirms, in this context, that everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms;

4. *Stresses* the importance for States, when developing their environmental policies, to take into account how environmental degradation may affect all members of society, and in particular women, children, indigenous people or disadvantaged members of society, including individuals and groups of individuals who are victims of or subject to racism, as reflected in the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1);

5. *Encourages* all efforts towards the implementation of the principles of the Rio Declaration on Environment and Development, in particular principle 10, in order to contribute, inter alia, to effective access to judicial and administrative proceedings, including redress and remedy;

6. *Reaffirms* that good governance within each country and at the international level is essential for sustainable development;

7. *Requests* the United Nations High Commissioner for Human Rights to disseminate widely the reports considered and resolutions adopted by the Commission on Human Rights and the observations and recommendations adopted by human rights treaty bodies on issues relevant to environmental protection;

8. *Also requests* the High Commissioner and invites the United Nations Environment Programme, the United Nations Development Programme and other relevant bodies and organizations, within their respective mandates and approved work programmes and budgets, to continue to coordinate their efforts in activities relating to human rights and the environment in poverty eradication, post-conflict environmental assessment and rehabilitation, disaster prevention, post-disaster assessment and rehabilitation, to take into consideration in their work relevant findings and recommendations of others and to avoid duplication;

9. *Further requests* the High Commissioner and invites the United Nations Environment Programme, within their respective mandates and approved work programmes and budgets, to continue to coordinate their efforts in capacity-building activities, in cooperation with other relevant bodies and organizations;

10. *Requests* the Secretary-General to submit to the Commission at its sixty-third session a report, consistent with the outcomes of the High-level Plenary Meeting of the General Assembly on the Millennium Declaration in September 2005, on how respect for human rights can contribute to sustainable development, including its environmental component, and can also contribute positively to poverty eradication and strengthen capacity-building activities for developing countries, taking into account the contributions of relevant international

organizations and bodies and the views of concerned States, and to include any developments that would update the report of the Secretary-General on human rights and the environment as part of sustainable development;

11. *Decides* to continue its consideration of this question at its sixty-third session under the same sub-item of the agenda item entitled "Promotion and protection of human rights".

58th meeting
20 April 2005
[Adopted without a vote. See chap. XVII.]

2005/61. World Programme for Human Rights Education

The Commission on Human Rights,

Recalling the relevant resolutions adopted by the General Assembly, the Commission and the Sub-Commission on the Promotion and Protection of Human Rights concerning the United Nations Decade for Human Rights Education, 1995-2004,

Recalling also its resolution 2004/71 of 21 April 2004, in which it recommended that the General Assembly proclaim at its fifty-ninth session a world programme for human rights education, to begin on 1 January 2005,

Reaffirming the need for continued actions at the international level to support national efforts to achieve the internationally agreed development goals, including those contained in the United Nations Millennium Declaration, in particular universal access to basic education for all, by 2015,

Convinced that human rights education is a long-term and lifelong process by which everyone learns tolerance and respect for the dignity of others and the means and methods of ensuring that respect in all societies,

Believing that human rights education is essential to the realization of human rights and fundamental freedoms and contributes significantly to promoting equality, preventing conflict and human rights violations and enhancing participation and democratic processes, with a view to developing societies in which all human beings are valued and respected, without discrimination or distinction of any kind, such as race, colour, sex, language, religion, political, or other opinion, national or social origin, property, disability, birth or other status,

1. *Welcomes* the report of the United Nations High Commissioner for Human Rights on the follow-up to the United Nations Decade for Human Rights Education, including the proclamation of the World Programme for Human Rights Education (E/CN.4/2005/98);

2. *Welcomes also* the proclamation by the General Assembly, on 10 December 2004, of the World Programme for Human Rights Education, structured in consecutive phases, which began on 1 January 2005, in order to advance the implementation of human rights education programmes in all sectors;

3. *Encourages* the General Assembly to adopt, possibly during its current fifty-ninth session and no later than the end of 2005, the revised draft plan of action for the first phase (2005-2007) of the World Programme for Human Rights Education (A/59/525/Rev.1), focusing on the primary and secondary school systems;

4. *Encourages* all States to develop initiatives within the World Programme for Human Rights Education and, in particular, to implement, within their capabilities, the revised draft plan of action once it is adopted by the General Assembly;

5. *Requests* the High Commissioner to promote and, when requested, technically assist, in close cooperation with the United Nations Educational, Scientific and Cultural Organization, the national implementation of the revised draft plan of action once it is adopted by the General Assembly and to coordinate related international efforts;

6. *Appeals* to relevant organs, bodies or agencies of the United Nations system, as well as all other international and regional intergovernmental and non-governmental organizations, within their respective mandates, to promote and technically assist, when requested, the national implementation of the revised draft plan of action, once it is adopted by the General Assembly;

7. *Requests* the Office of the United Nations High Commissioner for Human Rights and the United Nations Educational, Scientific and Cultural Organization to disseminate widely among States and intergovernmental and non-governmental organizations by any means, including electronic means, the revised draft plan of action, once it is adopted by the General Assembly;

8. *Also requests* the Office of the High Commissioner to report to the Commission at its sixty-second session on progress made towards the implementation of the present resolution;

9. *Decides* to consider this issue at its sixty-second session under the same agenda item.

58th meeting
20 April 2005
[Adopted without a vote. See chap. XVII.]

2005/62. Convention on the Prevention and Punishment of the Crime of Genocide

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, as well as other relevant international instruments,

Recalling the adoption by the General Assembly of resolution 96 (I) of December 1946, which declares genocide to be a crime under international law and that the punishment of the crime of genocide is a matter of international concern, *Taking into consideration* that States parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity of 26 November 1968 have agreed that no statutory limitation shall apply to such crimes,

Recalling General Assembly resolution 53/43 of 2 December 1998 on the fiftieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide,

Recalling also all its previous resolutions on the Convention, most recently resolution 2003/66 of 24 April 2003,

Acknowledging the establishment of the International Criminal Court in accordance with the Rome Statute (A/CONF.183/9), and that genocide is defined in the Rome Statute among the most serious crimes of concern to the international community as a whole,

Deeply concerned about the occurrence in recent history of genocide, recognized as such by the international community, on the basis of and as defined in the Convention on the Prevention and Punishment of the Crime of Genocide, and bearing in mind that serious and systematic violations of human rights and international humanitarian law might result in genocide,

Affirming that impunity for such crimes encourages their occurrence, and is a fundamental obstacle to the furtherance of cooperation among peoples and the promotion of international peace and security, and that fighting impunity for such crimes is an important factor in their prevention,

Recalling that it is the duty of every State, in accordance with its international obligations, to exercise its criminal jurisdiction over all those responsible for genocide,

Recognizing that effective functioning of mechanisms for the prevention, halting and punishment of the crime of genocide is essential for the liberation of humankind from such an odious scourge and that further international cooperation is required in this respect,

Welcoming in this regard the Stockholm International Forum on the theme of "preventing genocide: threats and responsibilities", which took place from 26 to 28 January 2004, and the Declaration of the International Forum,

Recognizing the important contribution of the United Nations human rights machinery to efforts towards preventing situations in which the crime of genocide could be committed,

Welcoming, in this regard, the solemn commemoration of the International Day of Reflection on the 1994 Genocide in Rwanda, held on 7 April 2004 in Geneva, and the presence of the Secretary-General at the commemoration, during which he unveiled his Action Plan to Prevent Genocide,

1. *Reaffirms* the significance of the Convention as an effective international instrument for the prevention and punishment of the crime of genocide;

2. *Expresses its appreciation* to all States that have ratified or acceded to the Convention, and in particular to the States that have done so in the years following the adoption of resolution 2003/66 of the Commission;

3. *Calls upon* States that have not yet ratified or acceded to the Convention to consider doing so and, where necessary, to enact national legislation in conformity with the provisions of the Convention;

4. *Stresses* the importance of enhanced international cooperation, including through the United Nations system and through regional organizations, aimed at fostering the principles enshrined in the Convention in order to prevent and end impunity for genocide, to deter the future occurrence of such crime in light of the overriding political, humanitarian and moral imperatives of the international community, as well as with a view to further promoting regional and international peace and stability and friendly relations among all States;

5. *Acknowledges* the relevance and importance of the Five Point Action Plan of the Secretary-General as a practical step aimed at enhancing the efforts of the international community to prevent the genocide;

6. *Welcomes* the appointment by the Secretary-General of a Special Adviser on the Prevention of Genocide, which bears significant potential for strengthening early-warning mechanisms to prevent potential situations that could result in genocide;

7. *Requests* all Governments to cooperate fully with the Special Adviser in the performance of his work, to furnish all information requested and to react promptly to his urgent appeals;

8. *Encourages* the Special Adviser, in discharging his duties, to liaise with the United Nations system, in particular with the relevant special procedures of the Commission, on his activities for the prevention of genocide;

9. *Requests* the Secretary-General to make available to the Commission at its sixty-second session a report on the implementation of the Action Plan and on the activities of the Special Adviser and invites the Special Adviser to address the Commission at the same session and at the sixty-third session on the progress made in discharging his duties;

10. *Encourages* Governments, in cooperation with international, regional, as well as non-governmental organizations, to disseminate, through educational activities, knowledge of the principles of the Convention, inter alia those of its provisions relating to accountability;

11. *Invites* the Secretariat and relevant organs and agencies of the United Nations system to take further efforts in disseminating the Convention widely, with a view to ensuring its universality and full and comprehensive implementation;

12. *Decides* to examine the issue at its sixty-third session.

58th meeting
20 April 2005
[Adopted without a vote. See chap. XVII.]

2005/63. Protection of the human rights of civilians in armed conflicts

The Commission on Human Rights,

Guided by the Charter of the United Nations and the Universal Declaration of Human Rights,

Recalling the International Covenants on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions, of 12 August 1949, and the Additional Protocols thereto of 8 June 1977, and other human rights and international humanitarian law instruments, together with the Vienna Declaration and Programme of Action,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms,

Gravely concerned about violations of human rights law and international humanitarian law during armed conflicts, in all parts of the world, and their impact on the civilian population, especially women, children and vulnerable groups,

Reiterating that effective international measures to guarantee and monitor the implementation of human rights standards should be taken in respect of civilian populations in situations of armed conflicts, including people under foreign occupation, and that effective legal protection against the violation of their human rights should be provided, in accordance with human rights norms and international law, particularly the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and other applicable norms of international humanitarian law,

Acknowledging that human rights law and international humanitarian law are complementary and mutually reinforcing,

Considering that all human rights require protection equally and that the protection provided by human rights law continues in armed conflict situations, taking into account when international humanitarian law applies as *lex specialis*,

Recalling that, in accordance with article 4 of the International Covenant on Civil and Political Rights, certain rights are recognized as non-derogable in all circumstances and that any measures derogating from the provisions of the Covenant must be in accordance with its article 4 in all cases, and underlining the exceptional and temporary nature of any such derogations,

1. *Emphasizes* that conduct that violates international humanitarian law, including grave breaches of the Geneva Conventions, of 12 August 1949, or of the Protocol Additional thereto of 8 June 1977 relating to the Protection of Victims of International Armed Conflicts (Protocol I), may also constitute a gross violation of human rights;

2. *Urges* all parties to armed conflicts to comply with their obligations under international humanitarian law, in particular to ensure respect for and protection of the civilian population, and also urges all States to comply with their human rights obligations in this context;

3. *Stresses* the importance of combating impunity in order to prevent violations of international human rights and humanitarian law perpetrated against civilians in armed conflicts, and urges States to end impunity for such crimes by bringing the perpetrators to justice in accordance with their international obligations;

4. *Calls upon* States to respect and to ensure respect for relevant international humanitarian law instruments and customary international law;

5. *Invites* the international community to support regional efforts aimed at the protection of civilians in armed conflicts, and welcomes the recent appointment by the African Union of a special representative on the protection of civilians in armed conflict situations in Africa;

6. *Takes note with appreciation* of decision 2004/118 of 12 August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights in which the Sub-Commission requested a working paper on human rights law and international humanitarian law, and looks forward to its conclusions and recommendations;

7. *Decides* to consider this issue at its sixty-second session under the same agenda item.

58th meeting
20 April 2005
[Adopted by a recorded vote of 51 votes to 1,
with 1 abstention. See chap. XVII.]

2005/64. World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

The Commission on Human Rights,

Recalling all its previous resolutions on the elimination of racism, racial discrimination, xenophobia and related intolerance,

Recalling in particular its resolutions 2002/68 of 25 April 2002 and 2003/30 of 23 April 2003, in which the Commission established effective mechanisms for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1),

Taking note of General Assembly resolution 59/177 of 20 December 2004, in which the Assembly firmly consolidated the global drive for the total elimination of racism, racial discrimination, xenophobia and related intolerance and recognized the absolute necessity and the imperative nature of the political will for the achievement of the commitments undertaken in the Durban Declaration and Programme of Action, *Recalling* General Assembly resolution 58/160 of 22 December 2003 appreciating the growing momentum for enhanced effort by the international community towards the elimination of racism, racial discrimination, xenophobia and related intolerance,

Noting that in General Assembly resolution 57/195 of 18 December 2002, the Assembly outlined the important roles and responsibilities of the various organs of the United Nations and other stakeholders at the international, regional and national levels, including, in particular, the Commission, in the field of elimination of racism, racial discrimination, xenophobia and related intolerance,

Reaffirming that universal adherence to and full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination are of paramount importance for the promotion of equality and non-discrimination in the world,

Reiterating that all human beings are born free and equal in dignity and rights and have the potential to contribute constructively to the development and well-being of their societies, and that any doctrine of racial superiority is scientifically false, morally condemnable, socially unjust and dangerous and must be rejected, together with theories that attempt to determine the existence of separate human races,

Deploring the increase in racist violence and xenophobic ideas in many parts of the world, in political circles, in the sphere of public opinion and in society at large, inter alia as a result of the resurgent activities of associations established on the basis of racist and xenophobic platforms and charters, and the persistent use of those platforms and charters to promote or incite racist ideologies,

Recognizing with deep concern the increase in anti-Semitism, Christianophobia and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Arab, Christian, Jewish and Muslim communities, communities of people of African descent, communities of Asian descent and other communities,

Acknowledging the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 1 July 2003 and inviting all States that have not yet done so to consider signing, ratifying or acceding to this important instrument, which stresses that States are under the obligation to protect migrants and members of their families as victims of racism, racial discrimination, xenophobia and related intolerance,

Underlining that political will, international cooperation and adequate funding at all levels are indispensable prerequisites for the successful implementation of the Durban Declaration and Programme of Action,

Underlining also its commitment to a global drive for the total elimination of racism, racial discrimination, xenophobia and related intolerance, and encouraging all States to join this drive towards non-discrimination, human dignity and equality for all peoples worldwide, *Welcoming* the determination of the United Nations High Commissioner for Human Rights to profile and increase the visibility of the struggle against racism, racial discrimination, xenophobia and related intolerance and her intention to make this a cross-cutting issue in the activities and programmes of her Office,

I. BASIC GENERAL PRINCIPLES

1. *Acknowledges* that no derogation from the prohibition of racial discrimination, genocide, the crime of apartheid or slavery is permitted, as defined in the obligations under the relevant human rights instruments;

2. *Stresses* that States and international organizations have a responsibility to ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent or national or ethnic origin, and urges all States to rescind or refrain from all forms of racial profiling;

3. *Regrets* that racially discriminatory immigration laws, policies and practices, including enforcement mechanisms, contribute to the persistence of racism, racial discrimination, xenophobia and related intolerance and in this context urges all States that have not yet done so to review and revise any racially discriminatory immigration laws, policies and practices so that they are free of racial discrimination and compatible with their obligations under international human rights instruments;

4. *Underlines* the importance of mainstreaming the values of non-discrimination, equality, human dignity and human solidarity in the United Nations system;

5. *Urges* States to mainstream a gender perspective in the design and development of prevention, education, promotion and protection measures aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at all levels, to ensure that they effectively target the distinct situations of women and men;

6. *Expresses deep concern* at recent attempts to establish hierarchies among emerging and resurgent forms of racism, racial discrimination, xenophobia and related intolerance, and urges States to adopt measures for addressing these scourges with the same emphasis and vigour, with a view to preventing this practice and protecting victims;

7. *Expresses its profound concern about and its unequivocal condemnation of* all forms of racism and racial discrimination, including related acts of racially motivated violence, xenophobia and intolerance, as well as propaganda activities and organizations that attempt to justify or promote racism, racial discrimination, xenophobia and related intolerance in any form;

II. INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

8. *Reiterates the call* made by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in paragraph 75 of the Durban Plan of Action to achieve universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination by 2005 and for all States to consider making the declaration

envisaged under article 14 of the Convention, and expresses grave concern that, with 170 ratifications and only 45 declarations, the deadline for universal ratification decided by the Conference has regrettably not been realized;

9. *Calls upon* all States that have not yet complied with the recommendations of the Conference urgently to demonstrate will and commitment towards the fulfilment of these recommendations as a matter of priority;

10. *Requests*, in the above context, the Office of the United Nations High Commissioner for Human Rights to publish a list of countries that have not yet ratified the Convention and to initiate a reinvigorated campaign for universal ratification of the Convention at the earliest, and to submit a report on its efforts in this regard to the Commission at its sixty-second session;

11. *Reiterates* that the Committee on the Elimination of Racial Discrimination, in its general recommendation XV (42) of 17 March 1993 concerning article 4 of the Convention, holds that the prohibition of the dissemination of ideas based on racial superiority or racial hatred is compatible with the right to freedom of opinion and expression as outlined in article 19 of the Universal Declaration of Human Rights and in article 5 of the Convention;

12. *Welcomes* and emphasizes the importance of implementing general recommendation XXVIII of 19 March 2002 of the Committee , in which the Committee emphasized the importance of follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and recommended measures to strengthen the implementation of the Convention as well as the functioning of the Committee;

13. *Welcomes also* general recommendation XXX on discrimination against non-citizens adopted by the Committee on 5 August 2004 and stresses the need for its implementation;

14. *Takes note* of the views of the Committee on the implementation of the Convention and its effectiveness (E/CN.4/WG.21/10 and Add.1), and expresses its appreciation for the quick response of the Committee to the request made by the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action and looks forward to further cooperation between the Intergovernmental Working Group and the Committee;

III. COMPREHENSIVE IMPLEMENTATION OF AND FOLLOW-UP TO THE DURBAN DECLARATION AND PROGRAMME OF ACTION

15. *Welcomes* the outcome of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action outlined in its report on the work of its third session (E/CN.4/2005/20), which focuses on complementary standards as well as cross-cutting thematic issues of health and racism, and racism and the Internet, and calls upon all States to implement the recommendations of the Intergovernmental Working Group without delay;

16. *Decides*, in the above context, to request the Office of the High Commissioner, in consultation with Member States, to convene a high-level seminar for five days during the fourth session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action:

(*a*) The first two days of the seminar to focus on racism and the Internet, inviting all stakeholders, inter alia States, the World Summit on the Information Society, international and regional organizations, non-governmental organizations, the private sector and the media;

(*b*) The remaining three days of the seminar, inviting members of the Committee on the Elimination of Racial Discrimination, to produce a list of areas where gaps exist for which complementary standards are necessary and outlining options for the format of complementary standards to existing instruments, notably the International Convention on the Elimination of All Forms of Racial Discrimination, which will strengthen and update international instruments in all their aspects;

17. *Decides* that the programme, structure and format of the high-level seminar should be agreed among Member States, assisted by the Office of the High Commissioner, and that they could include, but not necessarily be limited to, inviting a core group of ministers responsible for human rights and/or equivalent participants from all regions as panellists;

18. *Welcomes* the outcome of the fourth session of the Working Group of Experts on People of African Descent, which focused on the thematic issues of employment, health and housing, in particular the Working Group's intention to undertake country visits consistent with its mandate;

19. *Also welcomes* the recommendations of the Working Group of Experts on People of African Descent contained in its report (E/CN.4/2005/21);

20. *Decides* to convene the fourth session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action on suitable dates prior to the sixty-second session of the Commission;

21. *Strongly recommends* that no intersessional meetings of the mechanisms of the Commission established for the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the implementation of the Durban Declaration and Programme of Action be scheduled in a manner to coincide or overlap with the sessions of the General Assembly or any other sessions of the working groups of the Commission;

22. *Requests* the Office of the High Commissioner to ensure that the future sessions of the Working Group of Experts on People of African Descent are scheduled to precede those of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action;

23. *Underlines* that States, in conformity with their domestic legislation and relevant international human rights norms, should give priority to improving and funding systems to collect reliable disaggregated data to measure inequalities among different racial groups, with a

view to identifying and implementing appropriate corrective measures to combat racism and racial discrimination in their societies, and to ensuring that reliable disaggregated data are made widely available to the public for the implementation and evaluation of their policies and programmes in consultation with and through the participation of the public, including civil society, and to this end take into account existing best practices and initiatives at the national and regional levels, including, inter alia, those of the European Monitoring Centre on Racism and Xenophobia and the European Commission against Racism and Intolerance;

24. *Calls on* States to take firm action against racist platforms in political institutions present in various parts of the world, including in democratic systems, and reaffirms the incompatibility between democracy and racism;

25. *Condemns* all acts of racism in sporting events, whether manifested through violence, words or gestures, and whether committed by the public, management or players, and urges all States and national, regional and international sporting associations and federations to adopt firm measures for the prevention of such acts, and to impose severe penalties on the perpetrators of acts of racism;

26. *Decides* that at its next session, the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action will consider the thematic issue of globalization and racism;

27. *Invites* the Fédération Internationale de Football Association (FIFA), in connection with the 2006 World Cup of football to be held in Germany, and in particular in the interest of promoting a world of sport free from racism, to consider introducing a visible theme promoting non-racialism in football, and requests the Office of the High Commissioner to bring this matter to the attention of FIFA;

28. *Welcomes* the second meeting of the group of independent eminent experts, held in Geneva from 21 to 23 February 2005, in particular its programme of work as requested by the General Assembly in its resolution 59/177, and the appeal of the experts to the Commission and to the Assembly to adopt a plan for the five-year review of the implementation of the Durban Declaration and Plan of Action (see E/CN.4/2005/125 and Corr.1);

29. *Takes note* of the report of the High Commissioner on the possibility of the development of a racial equality index (E/CN.4/2005/17) as proposed by the group of independent eminent experts at its first meeting and requested by the Commission in its resolution 2004/88 of 22 April 2004, and requests the High Commissioner to expedite the consultative process in 2005 in this regard and to submit to the Commission at its sixty-second session a draft basic document on the proposed index;

30. *Recognizes* the centrality of resource mobilization, effective global partnership and international cooperation in the context of paragraphs 157 and 158 of the Durban Programme of Action for the successful realization of commitments undertaken at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and to this end emphasizes the central role to be played by the group of independent eminent experts in mobilizing the necessary political will required for the successful implementation of the Durban Declaration and Programme of Action;

31. *Requests* the High Commissioner to provide all the necessary resources for the effective fulfilment of the mandates of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the Working Group of Experts on People of African Descent and the group of independent eminent experts, and that in this regard particular attention be given to the proper staffing and adequate resources for the Anti-Discrimination Unit within the Office of the High Commissioner as a coordinating unit for the whole process in the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

32. *Urges* States to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

33. *Also urges* States to create national forums for dialogue that are open and transparent and involve all stakeholders, as a broad strategy for the implementation of measures foreseen in the Durban Declaration and Programme of Action;

34. *Calls upon* the Office of the High Commissioner to implement all the relevant recommendations of the third session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action and to submit a progress report in that regard to the Commission at its sixty-second session;

IV. SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE, AND FOLLOW-UP TO HIS VISITS

35. *Expresses its full support and appreciation* for the work of the Special Rapporteur, Mr. Doudou Diène, welcomes his reports (E/CN.4/2005/18 and Add.1 and Add.1/Corr.1 and Add.2-6 and E/CN.4/2005/19) and encourages the continuation of his work;

36. *Decides* to extend the mandate of the Special Rapporteur for a period of three years and recommends the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 18.];

37. *Reiterates its call* to all Member States, intergovernmental organizations, relevant organizations of the United Nations and non-governmental organizations to cooperate fully with the Special Rapporteur;

38. *Urges* all Governments to consider favourably the requests for visits by the Special Rapporteur;

39. *Invites* the High Commissioner to provide States, at their request, with advisory services and technical assistance to enable them to implement fully the recommendations of the Special Rapporteur;

40. *Requests* the Secretary-General to provide the Special Rapporteur with all the necessary human and financial assistance to carry out his mandate efficiently, effectively and expeditiously and to enable him to submit an interim report to the General Assembly at its sixtieth session and to the Commission at its sixty-second session;

41. *Decides* to consider this matter at its sixty-second session under the sub-item of the agenda entitled "Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action".

59th meeting
20 April 2005
[Adopted by a recorded vote of 38 votes to 1,
with 14 abstentions. See chap. VI.]

2005/65. Human rights of persons with disabilities

The Commission on Human Rights,

Recalling that all persons with disabilities have the right to protection against discrimination and to full and equal enjoyment of all human rights, as laid down, inter alia, in the provisions of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention concerning Vocational Rehabilitation and Employment (Disabled Persons), 1983 (No. 159) of the International Labour Organization,

Recalling and reaffirming commitments relating to the human rights and fundamental freedoms of persons with disabilities made at the major United Nations conferences and summits since 1990 and their follow-up processes and stressing the importance of mainstreaming the disability issue in their implementation,

Reaffirming its resolution 2004/52 of 20 April 2004 on human rights of persons with disabilities,

Recalling General Assembly resolutions 37/52 of 3 December 1982, by which it adopted the World Programme of Action concerning Disabled Persons, 48/96 of 20 December 1993, by which the Assembly adopted the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, 56/168 of 19 December 2001, by which it established the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities, 58/132 of 22 December 2003 and 59/198 of 20 December 2004,

Taking note of the draft resolutions of the Commission for Social Development of 18 February 2005 on a comprehensive and integral international convention on protection and promotion of the rights and dignity of persons with disabilities, and on the further promotion of equalization of opportunities by, for and with persons with disabilities, and protection of the human rights of persons with disabilities,

Reaffirming the universality, indivisibility and interdependence of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination, and convinced of the contribution that a convention will make in this regard, *Welcoming* the firm support of the international community for such a convention and the continued engagement in its elaboration,

Recognizing the considerable contribution of civil society, including non-governmental organizations, especially organizations of persons with disabilities, as well as national human rights institutions, in promoting the full and equal enjoyment of all human rights by persons with disabilities, and welcoming in this regard their active participation in the work of the Ad Hoc Committee,

Concerned that persons with disabilities face discrimination and may be affected by multiple discrimination,

Emphasizing the need to include a gender perspective in all efforts to promote and protect the full and equal enjoyment of all human rights by persons with disabilities,

Expressing grave concern that situations of armed conflict have especially devastating consequences for the human rights of persons with disabilities,

Concerned at the extent of disabilities caused by the indiscriminate use of anti-personnel mines and other weapons which may be deemed to be excessively injurious or to have indiscriminate effects, and at the long-lasting impact of these weapons which prevent the full and effective enjoyment of human rights, particularly among civilian populations, and welcoming increased international efforts to address this issue,

Reaffirming its commitment to ensuring that the human rights of persons with disabilities and their concerns for full participation in all aspects of society continue to be addressed in all of its work and reaffirming in this regard continued commitment of the Commission on Human Rights to contribute to the process of the elaboration of an international convention,

1. *Urges* Governments to take active measures to:

(*a*) Ensure the full and equal enjoyment by persons with disabilities of all human rights and fundamental freedoms;

(*b*) Prevent and prohibit all forms of discrimination against persons with disabilities;

(*c*) Ensure equal opportunities for full participation of persons with disabilities in all spheres of life;

(*d*) Integrate a gender perspective in all efforts to promote and protect the full and equal enjoyment of all human rights by persons with disabilities;

2. *Welcomes* the reports of the Ad Hoc Committee on its third, fourth and fifth sessions (A/AC.265/2004/5 and Corr.1 and 2, A/59/360 and A/AC.265/2005/2);

3. *Takes note with appreciation* of the report of the United Nations High Commissioner for Human Rights on progress in the implementation of the recommendations contained in the study on the human rights of persons with disabilities (E/CN.4/2005/82);

4. *Calls upon* the Office of the High Commissioner to continue to consider in its activities implementing the recommendations that relate to it in the study on human rights and disability, submitted to the Commission at its fifty-eighth session, as well as to continue to strengthen collaboration with other United Nations agencies and bodies;

5. *Also calls upon* the Office of the High Commissioner to report to the Commission at its sixty-second session on progress in the implementation of the recommendations contained in the study on human rights and disability and on the achievement of the objectives set forth in the programme of work of the Office in relation to the human rights of persons with disabilities;

6. *Welcomes* the past and future contributions and support of the Office of the High Commissioner to the work of the Ad Hoc Committee, and requests the Office to continue these in close collaboration with the Department of Economic and Social Affairs of the Secretariat and also with other relevant bodies and agencies of the United Nations;

7. *Requests* the Office of the High Commissioner to prepare an expert paper, focusing on the lessons learned from existing monitoring mechanisms, possible relevant improvements and possible innovations in monitoring mechanisms for a comprehensive and integral international convention on the protection and promotion of the rights and dignity of persons with disabilities, and to make the paper available to the Ad Hoc Committee at its seventh session;

8. *Welcomes* the important progress achieved so far in the negotiation of a draft convention and invites Member States and observers to continue to participate actively and constructively in the Ad Hoc Committee with a view to the early conclusion of a draft text of a convention, in order to present it to the General Assembly, as a matter of priority, for its adoption;

9. *Urges* that further efforts be made to ensure the active participation of non-governmental organizations in the Ad Hoc Committee, in accordance with General Assembly resolution 56/510 of 23 July 2002 and based on the decision of the Ad Hoc Committee on the modalities for the participation of non-governmental organizations in its work;

10. *Urges* Member States, observers, civil society and the private sector to continue to contribute to the United Nations Voluntary Fund on Disability, including the voluntary fund established by the General Assembly in resolution 57/229 of 18 December 2002, to support the participation of non-governmental organizations and experts from developing countries, in particular from the least developed countries, in the work of the Ad Hoc Committee;

11. *Invites* all special rapporteurs, in carrying out their mandates, to take into account the full and equal enjoyment of all human rights by persons with disabilities;

12. *Underlines* the importance of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities for the promotion and protection of the full and equal enjoyment of all human rights by persons with disabilities and invites the Special Rapporteur on disability of the Commission for Social Development to address the Commission on Human Rights at its sixty-second session on her experience in disability and human rights-related issues, drawing from the experience gained by her and the panel of experts

through monitoring the Standard Rules, and looks forward to a continued involvement of the Special Rapporteur in issues relating to disability within the Commission on Human Rights in order to mainstream a disability perspective;

13. *Invites* human rights treaty monitoring bodies to take into account the concerns of persons with disabilities in their lists of issues and concluding observations, to consider drafting general comments and recommendations on the full enjoyment of human rights by persons with disabilities and to integrate a disability perspective into their monitoring activities;

14. *Urges* Governments to address fully, in consultation with, inter alia, national human rights institutions and organizations of persons with disabilities, the question of the human rights of persons with disabilities in complying with their reporting obligations under the relevant United Nations human rights instruments and welcomes the efforts of those Governments that have begun to do so;

15. *Invites* national human rights institutions and non-governmental organizations to strengthen their work on human rights and disability, including by participating actively in the work of the Ad Hoc Committee in elaborating a draft convention, and to enhance their level of contributions to the work of the treaty monitoring bodies;

16. *Calls upon* all United Nations organizations and specialized agencies and intergovernmental institutions for development cooperation to integrate a disability and human rights perspective into their activities and to reflect this in their activity reports;

17. *Requests* the Secretary-General and the Office of the High Commissioner to include in relevant reports to the General Assembly and the Commission information on the progress of efforts to ensure the full recognition of and the full and equal enjoyment of all human rights by persons with disabilities and to make such reports available to the Ad Hoc Committee for its forthcoming sessions;

18. *Decides* to continue its consideration of this question at its sixty-second session under the same agenda item.

59th meeting
20 April 2005
[Adopted without a vote. See chap. XIV.]

2005/66. Right to the truth

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Geneva Conventions, of 12 August 1949, and the Additional Protocols thereto of 1977 and other relevant instruments of international human rights law and international humanitarian law, as well as the Vienna Declaration and Programme of Action, *Recognizing* the universality, indivisibility, interdependence and interrelatedness of civil, political, economic, social and cultural rights,

Recalling article 32 of the Additional Protocol to the Geneva Conventions, of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977, which recognizes the right of families to know the fate of their relatives,

Recalling also that article 33 of Additional Protocol I provides that the parties to an armed conflict shall search for the persons who have been reported missing, as soon as circumstances permit,

Stressing that adequate steps to identify victims should also be taken in situations not amounting to armed conflict, especially in cases of massive or systematic violations of human rights,

Taking into account its resolution 2004/72 of 21 April 2004, on impunity,

Recalling the Set of Principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/Sub.2/1997/20/Rev.1, annex II) and taking note with appreciation of the updated version of the Set of Principles (E/CN.4/2005/102/Add.1),

Noting that the Human Rights Committee (see A/51/40, chap. V, sect. G and A/38/40, annex XXII) and the Working Group on Enforced or Involuntary Disappearances (see E/CN.4/1999/62) have recognized the right of the victims of gross violations of human rights and the right of their relatives to the truth about the events that have taken place, including the identification of the perpetrators of the facts that gave rise to such violations,

Acknowledging, in cases of gross violations of human rights and serious violations of international humanitarian law, the need to study the interrelationship between the right to the truth and the right to access to justice, the right to obtain effective remedy and reparation, and other relevant human rights,

Acknowledging also that the right to the truth may be characterized differently in some legal systems as the right to know or the right to be informed or freedom of information,

Emphasizing that the public and individuals are entitled to access to the fullest extent practicable information regarding the actions and decision-making process of their Government, within the framework of each State's domestic legal system,

Stressing the imperative for society as a whole to recognize the right of victims of gross violations of human rights and serious violations of international humanitarian law, and their families, within the framework of each State's domestic legal system, to know the truth regarding such violations, including the identity of the perpetrators and the causes, facts and circumstances in which such violations took place, *Convinced* that States should preserve archives and other evidence concerning gross violations of human rights and serious violations of international humanitarian law to facilitate knowledge of such violations, to investigate allegations and to provide victims with access to an effective remedy in accordance with international law,

1. *Recognizes* the importance of respecting and ensuring the right to the truth so as to contribute to ending impunity and to promote and protect human rights;

2. *Welcomes* the establishment in several States of specific judicial mechanisms, as well as other non-judicial mechanisms such as truth and reconciliation commissions that complement the justice system, to investigate violations of human rights and violations of international humanitarian law, and appreciates the elaboration and publication of the reports and decisions of these bodies;

3. *Encourages* the States concerned to disseminate, implement, and monitor implementation of, the recommendations of non-judicial mechanisms such as truth and reconciliation commissions, and provide information regarding compliance with the decisions of judicial mechanisms;

4. *Encourages* other States to consider establishing specific judicial mechanisms as well as, where appropriate, truth and reconciliation commissions to complement the justice system, to investigate and address gross violations of human rights and serious violations of international humanitarian law;

5. *Encourages* States to provide appropriate assistance on this matter to concerned States;

6. *Requests* the Office of the United Nations High Commissioner for Human Rights to prepare a study on the right to the truth, including information on the basis, scope and content of the right under international law, as well as best practices and recommendations for effective implementation of this right, in particular, legislative, administrative or any other measures that may be adopted in this respect, taking into account the views of States and relevant intergovernmental and non-governmental organizations, for consideration at its sixty-second session;

7. *Invites* special rapporteurs and other mechanisms of the Commission, in the framework of their mandates, to take into account, as appropriate, the issue of the right to the truth;

8. *Decides* to consider this matter at its sixty-second session under the same agenda item.

59th meeting
20 April 2005
[Adopted without a vote. See chap. XVII.]

2005/67. Human rights defenders

The Commission on Human Rights,

Recalling General Assembly resolution 53/144 of 9 December 1998, by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, annexed to that resolution and reiterating the importance of the Declaration and its wide dissemination,

Recalling all previous resolutions on this subject, in particular its resolution 2004/68 of 21 April 2004, and taking note of General Assembly resolution 59/192 of 20 December 2004,

Noting with deep concern that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are facing threats, harassment and insecurity as a result of those activities,

Gravely concerned by the continuing high level of human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world and the increase in especially grave violations, such as killings, attacks on and threats to the physical integrity of human rights defenders and their relatives,

Recalling that human rights defenders are entitled to equal protection of the law, and deeply concerned about the increase in new restrictive legislation regulating the creation and operation of non-governmental organizations and any abuse of civil or criminal proceedings against human rights defenders because of their activities for the promotion and protection of human rights and fundamental freedoms,

Concerned at the considerable and increasing number of communications received by the Special Representative of the Secretary-General on the situation of human rights defenders which, together with the reports submitted by some of the special procedure mechanisms, indicate the serious nature of the risks faced by human rights defenders including during periods of special vulnerability, and including the severe consequences for women human rights defenders and defenders of rights of persons belonging to minorities,

Noting with deep concern that, in a number of countries in all regions of the world, impunity for threats, attacks and acts of intimidation against human rights defenders persists and that this impacts negatively on the work and safety of human rights defenders,

Emphasizing the important role that individuals, non-governmental organizations and groups play in the promotion and protection of human rights and fundamental freedoms, including in combating impunity, promoting access to justice, information and public participation in decision-making, and promoting, strengthening and preserving democracy,

Recognizing the importance of the role of human rights defenders, through dialogue, openness, participation and justice, in the prevention of violence and the promotion of sustainable peace and security, *Recalling* that, in accordance with article 4 of the International Covenant on Civil and Political Rights, certain rights are recognized as non-derogable in any circumstances and that any measures derogating from other provisions of the Covenant must be in accordance with that article in all cases, and in this regard, recalling Human Rights Committee general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency, which underlines the exceptional and temporary nature of any such derogations,

Gravely concerned that, in some instances, national security and counter-terrorism legislation and other measures have been misused to target human rights defenders or have hindered their work and safety in a manner contrary to international law,

Welcoming the significant work conducted by the Special Representative of the Secretary-General and encouraging continued cooperation between the Special Representative and other special procedures of the Commission,

Welcoming also regional initiatives and the cooperation between international and regional mechanisms for the promotion and protection of human rights defenders, and encouraging further development in this regard,

Welcoming further the steps taken by some States towards adoption of national policies or legislation for the promotion and protection of human rights defenders,

Recalling that the primary responsibility for promoting and protecting human rights rests with the State, and noting with deep concern that the activities of some non-State actors pose a major threat to the security of human rights defenders,

Emphasizing the need for strong and effective measures for the protection of human rights defenders,

1. *Calls upon* all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, including by taking, as appropriate, practical steps to that end;

2. *Welcomes* the reports of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2001/94, A/56/341, E/CN.4/2002/106 and Add.1 and 2, A/57/182, E/CN.4/2003/104 and Add.1-4, A/58/380, E/CN.4/2004/94 and Add.1-3, A/59/401 and E/CN.4/2005/101 and Add. 1 and 2 and Add.3 and Add.3/Corr.1);

3. *Condemns* all human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world and urges States to take all appropriate action, consistent with the Declaration and all other relevant human rights instruments, to eliminate such human rights violations;

4. *Calls upon* all States to take all necessary measures to ensure the protection of human rights defenders, and to ensure and maintain an environment conducive to the work of human rights defenders;

5. *Also calls upon* all States to ensure, protect and respect the freedom of expression and association of human rights defenders, in particular through transparent, non-discriminatory, expeditious and inexpensive procedures for the acquisition of legal status as organizations or associations if such acquisition is required, in accordance with national legislation;

6. *Urges* States to ensure that any measures to combat terrorism and preserve national security comply with their obligations under international law, in particular, under international human rights law, and do not hinder the work and safety of human rights defenders;

7. *Emphasizes* the importance of combating impunity for threats, attacks and acts of intimidation against human rights defenders and their relatives, and in this regard urges States to take appropriate measures consistent with obligations under international law, in particular international human rights law and international humanitarian law;

8. *Urges* States to ensure that complaints from human rights defenders about threats or violations against them and their relatives are investigated promptly and addressed in a transparent, independent and accountable manner;

9. *Urges* all States to cooperate with and assist the Special Representative in the performance of her tasks and to furnish all information for the fulfilment of her mandate upon request;

10. *Calls upon* States to give serious consideration to responding favourably to the Special Representative's requests to visit their countries and urges them to enter into a constructive dialogue with the Special Representative with respect to the follow-up to and implementation of her recommendations;

11. *Urges* those States that have not yet responded to the communications transmitted to them by the Special Representative to answer without further delay;

12. *Encourages* all States to investigate promptly urgent appeals and allegations brought to their attention by the Special Representative and to take timely action to prevent violations of the rights of human rights defenders;

13. *Invites* States to translate the Declaration into national languages and to take measures to improve its dissemination;

14. *Encourages* States to promote awareness and training in regard to the Declaration in order to enable officials, agencies, authorities and the judiciary to observe the provisions of the Declaration and thus promote better understanding and respect for human rights defenders;

15. *Encourages* relevant national authorities to promote awareness, better understanding and respect for human rights defenders through education programmes;

16. *Requests* the Secretary-General to provide the Special Representative with all necessary human, material and financial resources in order to enable her to continue to carry out her mandate effectively, including through country visits;

17. *Requests* all concerned United Nations agencies and organizations, within their mandates, to provide all possible assistance and support to the Special Representative in the implementation of her programme of activities;

18. *Invites* relevant United Nations bodies, including at the country level, within their respective mandates and working in cooperation with States, to give due consideration to the Declaration and to the reports of the Special Representative, and requests in this context the Office of the United Nations High Commissioner for Human Rights to draw the attention of all relevant United Nations bodies, including at the country level, to the reports of the Special Representative;

19. *Requests* the Special Representative to continue to report on her activities to the General Assembly and to the Commission in accordance with her mandate;

20. *Decides* to consider this question at its sixty-second session, under the same agenda item.

59th meeting
20 April 2005
[Adopted without a vote. See chap. XVII.]

2005/68. The role of good governance in the promotion and protection of human rights

The Commission on Human Rights,

Guided by the Universal Declaration of Human Rights as a common standard of achievement of all peoples and all nations applying to every individual and every organ of society, and also the Vienna Declaration and Programme of Action (A/CONF.157/23), which affirmed that all human rights are universal, indivisible, interdependent and interrelated,

Recalling its resolution 2004/70 of 21 April 2004 and all previous relevant resolutions on the role of good governance in the promotion of human rights, as well as the United Nations Millennium Declaration,

Recognizing the importance of a conducive environment, at both the national and the international levels, for the full enjoyment of all human rights and of the mutually reinforcing relationship between good governance and human rights,

Recognizing also that transparent, responsible, accountable and participatory government, responsive to the needs and aspirations of the people, including members of vulnerable and marginalized groups, is the foundation on which good governance rests and that such a foundation is a sine qua non for the full realization of human rights, including the right to development,

Recognizing further that an independent and impartial judiciary and an independent legal profession are essential prerequisites for good governance and the protection of human rights, *Recognizing* that good governance and the building of effective democratic institutions are a continuous process for all Governments, regardless of the level of development of the countries concerned,

Noting that good governance practices necessarily vary according to the particular circumstances and needs of different societies, and that the responsibility for determining and implementing such practices, based on transparency and accountability, and for creating and maintaining an enabling environment conducive to the enjoyment of all human rights at the national level rests with the State concerned,

Welcoming the emphasis given in the conclusions of the sixth session of the Working Group on the Right to Development to the importance of good governance at all levels in the implementation of the right to development,

Welcoming also the commitment of Arab States to national implementation of the Initiative on Good Governance for Development in the Arab Countries launched by them at the Organization for Economic Cooperation and Development/United Nations Development Programme Conference on Good Governance for Development in the Arab Countries held in Jordan on 6 and 7 February 2005,

Recognizing the importance of an active civil society in ensuring that good governance practices benefit all people, including members of vulnerable and marginalized groups,

Recognizing also the constructive role that national human rights institutions can play in promoting good governance, as reflected in the concluding statement and recommendations of the International Round Table on National Institutions and Good Governance, held in Suva from 13 to 15 December 2004,

Reaffirming the leading role played by the United Nations in developing and promoting democracy and human rights, and recognizing the role of other processes, including the International Conference of New or Restored Democracies and the Community of Democracies,

Reaffirming also the importance of international and regional cooperation, when required by the States in need, in order to facilitate the implementation of good governance practices at all levels,

1. *Urges* States to provide transparent, responsible, accountable and participatory government, responsive to the needs and aspirations of the people, including members of vulnerable and marginalized groups, and to respect and protect the independence of judges and lawyers in order to achieve the full realization of human rights;

2. *Reaffirms* the special role of good governance within countries and at the international level in development and poverty eradication, as reflected in paragraph 13 of the United Nations Millennium Declaration, and underlines its fundamental importance to the realization of the internationally accepted development goals, including those included in the Millennium Declaration;

3. *Encourages*, in this context, the growing recognition of the value of partnerships among relevant actors at all levels as a solid foundation on which good governance rests, and notes that such partnerships are strengthened by, inter alia, constructive approaches to international development cooperation;

4. *Welcomes* the report on the Seminar on good governance practices for the promotion of human rights (see E/CN.4/2005/97), jointly organized by the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme in Seoul on 15 and 16 September 2004, and notes the discussions held on each of the four themes considered at the seminar, including:

(*a*) The need for human rights education, including training of judges and lawyers and active law reform programmes to ensure that the rule of law promotes justice for all, including members of vulnerable and marginalized groups;

(*b*) The need for Governments to ensure that services are delivered to all members of the public in a transparent and accountable manner that is adapted to the particular needs of the population and promotes and protects human rights;

(*c*) The importance of deepening democracy beyond free and fair elections, to include other elements essential to the development of a truly transparent, responsible, accountable and participatory government; and

(*d*) The importance of taking measures, both within countries and at the international level, that promote transparency and combat corruption, including entry into force and implementation of the United Nations Convention against Corruption as well as the United Nations Convention against Transnational Organized Crime, so as to eliminate corruption and the multiple negative impacts that it has on human rights;

5. *Requests* the Office of the High Commissioner:

(*a*) To ensure that relevant United Nations agencies and other bodies with governance programmes, including relevant international financial and development institutions, are aware of the outcomes of the Seminar, and to encourage them to examine whether their approaches to good governance promote human rights;

(*b*) To publish a selection of practices arising from the Seminar and the material provided by States, intergovernmental organizations and non-governmental organizations, for consultation by States;

(*c*) To convene a seminar in 2006, from extrabudgetary resources, on the role of anti-corruption measures at the national and international levels in good governance practices for the promotion and protection of human rights;

6. *Decides* to continue its consideration of this question at its sixty-second session under the same agenda item.

59th meeting
20 April 2005
[Adopted without a vote. See chap. XVII.]

2005/69. Human rights and transnational corporations and other business enterprises

The Commission on Human Rights,

Recalling its decision 2004/116 of 20 April 2004 on the responsibilities of transnational corporations and related business enterprises with regard to human rights,

Welcoming the report of the United Nations High Commissioner for Human Rights on the responsibilities of transnational corporations and related business enterprises with regard to human rights (E/CN.4/2005/91),

Recognizing that transnational corporations and other business enterprises can contribute to the enjoyment of human rights, inter alia through investment, employment creation and the stimulation of economic growth,

Recognizing also that the responsible operation of transnational corporations and other business enterprises and effective national legislation can contribute to the promotion of respect for human rights and assist in channelling the benefits of business towards this goal,

1. *Requests* the Secretary-General to appoint a special representative on the issue of human rights and transnational corporations and other business enterprises, for an initial period of two years, who shall submit an interim report to the Commission at its sixty-second session and a final report at its sixty-third session, with views and recommendations for the consideration of the Commission, with the following mandate:

(*a*) To identify and clarify standards of corporate responsibility and accountability for transnational corporations and other business enterprises with regard to human rights;

(*b*) To elaborate on the role of States in effectively regulating and adjudicating the role of transnational corporations and other business enterprises with regard to human rights, including through international cooperation;

(*c*) To research and clarify the implications for transnational corporations and other business enterprises of concepts such as "complicity" and "sphere of influence";

(*d*) To develop materials and methodologies for undertaking human rights impact assessments of the activities of transnational corporations and other business enterprises;

(*e*) To compile a compendium of best practices of States and transnational corporations and other business enterprises;

2. *Underlines* that the Special Representative should take into account in his or her work the report of the High Commissioner and the contributions to that report provided by all stakeholders, as well as existing initiatives, standards and good practices;

3. *Requests* the Special Representative, in carrying out the mandate in paragraph 1 above, to liaise closely with the Special Adviser to the Secretary-General for the Global Compact and to consult on an ongoing basis with all stakeholders, including States, the Global Compact,

international and regional organizations such as the International Labour Organization, the United Nations Conference on Trade and Development, the United Nations Environment Programme and the Organization for Economic Cooperation and Development, transnational corporations and other business enterprises, and civil society, including employers' organizations, workers' organizations, indigenous and other affected communities and non-governmental organizations;

4. *Requests* the Office of the High Commissioner to provide all necessary administrative support and financial and human resources to the Special Representative in carrying out this mandate;

5. *Requests* the High Commissioner to convene annually, in cooperation with the Special Representative, a meeting with senior executives from companies and experts from a particular sector, such as the pharmaceutical, extractive or chemical industries, to consider, within the mandate of the Special Representative as set out in paragraph 1 above, the specific human rights issues faced by those sectors, to raise awareness and share best practice, and to report on the outcome of the first meeting to the Commission at its sixty-second session, under the same agenda item;

6. *Decides* to continue its consideration of this question at its sixty-second session;

7. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 19.]

59th meeting
20 April 2005
[Adopted by a recorded vote of 49 votes to 3,
with 1 abstention. See chap. XVII.]

2005/70. Human rights and transitional justice

The Commission on Human Rights,

Reaffirming the Universal Declaration of Human Rights and other existing international instruments,

Bearing in mind the relevant provisions contained in previous resolutions of the General Assembly and the Commission, in particular in its resolution 2004/72 of 21 April 2004 on impunity,

Recalling the report of the Panel on United Nations Peace Operations (see A/55/305-S/2000/809), in particular its recommendations concerning the Office of the United Nations High Commissioner for Human Rights, and noting the report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616), including relevant recommendations contained therein, *Welcoming* the activities of the United Nations, including through its field presences, in assisting States to establish transitional justice mechanisms and promote the rule of law,

Welcoming also the increased integration of a human rights perspective, including through activities of the Office of the High Commissioner in cooperation with other relevant parts of the United Nations system, in the United Nations activities related to transitional justice, as well as the importance given to the rule of law and transitional justice by the United Nations High Commissioner for Human Rights and her Office, including its Rule of Law and Democracy Unit,

Underlining the importance and urgency of national and international efforts to restore justice and the rule of law in conflict and post-conflict situations and, where relevant, in the context of transitional process, and emphasizing the importance of the full range of political, judicial and non-judicial mechanisms in order to ensure accessibility and accountability and to serve justice, promote and achieve reconciliation and to restore confidence in the institutions of the State, in accordance with international human rights standards and the principle of non-discrimination,

Emphasizing that justice, peace, democracy and development are mutually reinforcing imperatives,

Stressing that the full range of civil, cultural, economic, political and social rights shall be taken into account in any transitional justice context,

Stressing also the importance of a comprehensive process of national consultation, particularly with those affected by human rights violations, in contributing to a holistic transitional justice strategy that takes into account the particular circumstances of every situation and in conformity with international human rights standards,

Recognizing the important role played in the realization of transitional justice goals and in the reconstruction of the society by:

(*a*) Victims' associations, human rights defenders and other actors of civil society, as well as national human rights institutions created in conformity with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles),

(*b*) Women's organizations in the design and establishment of transitional justice mechanisms, so that women are represented in their structures and that a gender perspective and women's concerns are reflected in their mandates,

(*c*) Free and independent media in informing the public about the human rights dimension in the area of transitional justice mechanisms locally, nationally and internationally,

Emphasizing the need to provide gender-sensitive training in the context of transitional justice to all relevant national actors, including police, prosecution and members of the judiciary, in dealing with victims of human rights violations, particularly women and girls, *Underlining* the need for the rights of both victims and accused persons to be respected, in accordance with international standards, with particular attention to groups most affected by conflicts and the breakdown of the rule of law, among them women, children, migrants, refugees, persons with disabilities and persons belonging to minorities, and to ensure that specific measures are taken for their free participation and protection as well as for the sustainable return of refugees and internally displaced persons in safety and dignity,

1. *Calls upon* States to assist the United Nations in its ongoing work on the relevant recommendations of the report of the Secretary-General, including by cooperating fully with United Nations field presences in the area of human rights and transitional justice as well as by facilitating the work of relevant special procedures;

2. *Also calls upon* the international community and regional organizations to assist countries in the context of transitional justice to ensure the promotion and protection of international human rights;

3. *Requests* the Office of the High Commissioner to enhance its leading role in assisting States to develop and implement transitional justice mechanisms from a human rights perspective, while stressing the importance of close cooperation between the Office of the High Commissioner and other relevant parts of the United Nations as well as other international and non-governmental organizations with regard to the ongoing process of strengthening the United Nations system in the area of the rule of law and transitional justice;

4. *Also requests* the Office of the High Commissioner to submit, in consultation with other parts of the United Nations system, civil society and other stakeholders, a study on human rights and transitional justice activities undertaken by the human rights components of the United Nations that would include an analysis of the work accomplished, a compilation of lessons learned and best practices as well as conclusions and recommendations, with a view to assisting countries in the context of transitional justice;

5. *Requests* other parts of the United Nations system to cooperate fully with the Office of the High Commissioner in the area of human rights and transitional justice;

6. *Decides* to continue its consideration of this matter at its sixty-second session under the same agenda item.

59th meeting
20 April 2005
[Adopted without a vote. See chap. XVII.]

2005/71. Regional cooperation for the promotion and protection of human rights in the Asian and Pacific region

The Commission on Human Rights,

Recalling its resolution 2004/74 of 21 April 2004,

Stressing that regional cooperation can play an important role in promoting universal respect for, and observance of, human rights and fundamental freedoms,

Stressing the importance of the linkage and mutually reinforcing aspects of all four areas of the Framework of Regional Technical Cooperation Programme in Asia and the Pacific (E/CN.4/1998/50, annex II) adopted at the sixth Workshop on Regional Arrangements for the Promotion and Protection of Human Rights in the Asian and Pacific Region, held in Tehran from 28 February to 2 March 1998, namely human rights education, national institutions for the promotion and protection of human rights, national plans of action for the promotion and protection of human rights and the strengthening of national human rights capacities, and strategies for the realization of the right to development and economic, social and cultural rights,

Welcoming the convening of the thirteenth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific Region, to be held in Beijing from 30 August to 2 September 2005,

1. *Takes note* of the note by the Secretariat (E/CN.4/2005/105);

2. *Welcomes* the convening of the Inter-Sessional Expert Meeting on National Human Rights Plans of Action and Human Rights Education in the Asian-Pacific Region, held in Bangkok from 20 to 22 October 2004, and the Subregional Workshop for Judges and Lawyers on the Justiciability of Economic, Social and Cultural Rights in South-East Asia, held in Manila from 3 to 5 November 2004;

3. *Also welcomes* the efforts of the Office of the United Nations High Commissioner for Human Rights in developing partnerships for the implementation of its activities under the Framework for Regional Technical Cooperation in Asia and the Pacific to enhance national capacities for the promotion and protection of human rights in the region;

4. *Further welcomes* the offer by the Government of Qatar to host a United Nations centre for human rights for South-West Asia and the Arab Region in Doha in order to support the development of national human rights capacities and infrastructure;

5. *Requests* the Secretary-General to submit to the Commission at its sixty-second session a report containing the conclusions of the thirteenth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific Region and information on the progress achieved in the implementation of the present resolution;

6. *Decides* to continue its consideration of the question at its sixty-second session under the same agenda item.

59th meeting
20 April 2005
[Adopted without a vote. See chap. XVIII.]

2005/72. Composition of the staff of the Office of the United Nations High Commissioner for Human Rights

The Commission on Human Rights,

Recalling that, in its report to the Special Commission of the Economic and Social Council (E/CN.4/1988/85 and Corr.1), the Commission reaffirmed that the paramount consideration for employing staff at every level was the need for the highest standards of efficiency, competence and integrity and was convinced that this objective was compatible with the principle of equitable geographical distribution and took into account Article 101, paragraph 3, of the Charter of the United Nations,

Recalling also Part II, paragraphs 11 and 17, of the Vienna Declaration and Programme of Action (A/CONF.157/23), in which the World Conference on Human Rights requested the Secretary-General and the General Assembly to provide sufficient human, financial and other resources to the Centre for Human Rights to enable it effectively, efficiently and expeditiously to carry out its activities, while recognizing the necessity for restructuring United Nations human rights machinery, in accordance with its real needs,

Reaffirming the significance of national and regional particularities and various historical, cultural and religious backgrounds, as well as of different political, economic and legal systems,

Recognizing that the United Nations pursues multilingualism as a means of promoting, protecting and preserving diversity of languages and cultures globally and that genuine multilingualism promotes unity in diversity and international understanding,

Taking into account the need to pay particular attention to the recruitment of personnel for the Office of the United Nations High Commissioner for Human Rights from unrepresented and underrepresented Member States, particularly from developing countries and countries with economies in transition, thus improving the present staff composition, based on a more equitable geographical distribution,

Reiterating its deep concern that the report of the United Nations High Commissioner for Human Rights (E/CN.4/2005/109) concerning the geographical composition and the functions of the Office staff clearly reflects that one region is unequivocally overrepresented in the staff composition and that the imbalance remains (see the annexes to the present resolution),

Expressing again its concern over the non-representation and underrepresentation of several Member States, especially developing countries and countries with economies in transition, on the staff of the Office of the High Commissioner, many of them also non-represented or underrepresented at the level of the whole Secretariat, particularly bearing in mind the criteria of equitable geographical distribution,

Expressing its concern also that the prevalence of project personnel has skewed the geographical distribution of the staff of the Office towards Western Europe and North America, compared to the Secretariat-wide pattern, as has the geographical distribution of consultants, *Noting with grave concern* that the dependency of the Office on extrabudgetary resources is at the heart of the imbalance in the composition of its staff,

1. *Takes note* of the report of the High Commissioner on the composition of the staff of the Office of the High Commissioner and the measures proposed or implemented by the Office, as described therein, although they have not improved the situation for the last few years;

2. *Welcomes* the fact that the High Commissioner recently submitted a comprehensive proposal to the Office of Human Resources Management that will effectively discontinue the practice of hiring temporary staff for regular functions of the Office of the High Commissioner through the regularization of all core posts at headquarters and in the field to align the recruitment policy of the Office with that of the United Nations Secretariat;

3. *Regrets* that most of the measures described therein are not new and, as the statistics show, they are either inadequate or inadequately or insufficiently applied and they have failed to produce any concrete improvement in the geographical distribution of the staff of the Office to date, and that the report does not provide for specific targets and deadlines to be achieved in order to reduce the current imbalance in the staff, as requested in paragraph 23 (*a*) of Commission resolution 2004/73 of 21 April 2004;

4. *Expresses its concern* that, while nationals of 30 out of 43 developed countries are represented in the staff of the Office of the High Commissioner, the overwhelming majority of developing countries, 102 out of 148, have not a single national on the staff of the Office, despite the fact that 13 out of 15 unrepresented countries and 6 out of the 10 underrepresented countries at the level of the whole Secretariat are developing countries;

5. *Also expresses its concern* that the number of nationals of most of the developed countries overrepresented, underrepresented or within range at the level of the whole Secretariat outnumber by many times the average number of nationals of individual developing countries represented on the staff of the Office of the High Commissioner;

6. *Recalls* that the General Assembly has requested the Secretary-General to hold accountable the heads of the relevant departments for the human resources action plans and to ensure that they in turn take due account of equitable geographical representation when considering candidates on the lists endorsed by the central review bodies, as well as candidates on the rosters, and to report to the General Assembly annually on progress made by departments in the implementation of their respective human resources action plans;

7. *Expresses its grave concern* at the conclusion contained in the report of the Joint Inspection Unit entitled "Management review of the Office of the United Nations High Commissioner for Human Rights" (JIU/REP/2003/6) transmitted to the General Assembly in a note of the Secretary-General (A/59/65-E/2004/48 and Add.1) that the unbalanced geographical distribution of staff is a serious, endemic problem in the Office of the High Commissioner;

8. *Regrets* that, despite the repeated requests by the Commission to correct the unbalanced geographical distribution of the staff, the situation remains that one region accounts for more than half of the posts of the Office of the High Commissioner and for more posts than

the four remaining regional groups combined, and that there has been a bigger increase in the number of posts not subject to geographical distribution than in those subject to geographical distribution, which account for little more than one third of the total staff;

9. *Takes note with appreciation* that the recommendations for the selection of staff for technical cooperation activities and advisory services will be subject to the review of the Office's internal Advisory Panel on Personnel Issues and that the composition of the Advisory Panel has been reviewed to balance its geographical distribution, as requested by Commission resolution 2004/73, and requests the High Commissioner to ensure that it contributes to the improvement of the composition of the staff of the Office in general and to report to the Commission on the current composition of the Advisory Panel;

10. *Takes note* of the recommendation of the High Commissioner that the Office of Human Resources Management establish a human rights occupational group to attract to the area of human rights qualified junior professionals from unrepresented and underrepresented countries, while stressing that it would be more effective for the Office of the High Commissioner to provide the Office of Human Resources Management with a list of countries unrepresented or underrepresented within the Office, and therefore requests that the Office of the High Commissioner compile annually such a list and that the Office of Human Resources Management take that list into consideration when organizing competitive examinations;

11. *Welcomes* the statement in the report that the Office of the High Commissioner has instituted measures to apply the Organization's principles of geographical distribution with particular regard to unrepresented and underrepresented developing countries when filling extrabudgetary posts, involving the screening of candidates at the initial recruitment stage, including of short-term staff, to ensure that, between equally qualified candidates, priority is given to candidates from such countries, but regrets that in the last year there has been a further increase in the number of staff not subject to geographical distribution from one regional group, enlarging the existing chronic geographical imbalance, and requests the High Commissioner to use the policy of new recruitment to correct the current imbalance in the composition of the staff of the Office;

12. *Also welcomes* the assurance of the High Commissioner that she attaches the utmost importance to equitable geographical representation, as well as to the need for the highest standards of efficiency, competence and integrity on the part of the staff of her Office and the fact that the High Commissioner has paid particular attention to geographical diversity in the recruitment of the senior managers, since four out of seven posts subject to geographical distribution at the D-1 level and above are encumbered by staff from developing countries;

13. *Expresses its concern* about the widespread assignment of technical advisers (staff holding appointments under the 200 series of the Staff Rules of the United Nations) to carry out line functions, which should be performed by 100-series staff, and to supervise staff under the 100 series of the Staff Rules, a practice against established policies that should be discontinued;

14. *Stresses* that the proposal made in the last year by the Office of the High Commissioner to the Office of Human Resources Management to reduce the number of 200-series contracts of staff performing core functions by converting their 200-series contracts into 100-series contracts, limited to service with the Office of the High Commissioner, is against United Nations human resources policies, regulations and rules and is, therefore, unacceptable;

15. *Requests* the Office of the High Commissioner to observe fully United Nations human resources policies, regulations, rules and practices and, therefore, to align without further delay its human resources practices and procedures, in particular its recruitment and contractual policies, with Secretariat human resources policies, rules, regulations and practices and, furthermore, to check and align its post-classification criteria with those of the Secretariat before any post is advertised and to discontinue the practice of advertising extrabudgetary posts without first checking the classification criteria with the United Nations Office at Geneva;

16. *Reiterates* the need for the High Commissioner to observe the provisions contained in section X, paragraph 3, of General Assembly resolution 55/258 of 14 June 2001 on human resources management, which reiterates its request to the Secretary-General to increase further his efforts to improve the composition of the Secretariat by ensuring a wide and equitable geographical distribution of staff in all departments;

17. *Also reiterates* that it is necessary to take urgent, concrete and immediate action to change the currently prevailing geographical distribution of staff of the Office in favour of a more equitable distribution of posts, in accordance with Article 101 of the Charter, particularly by recruiting personnel from developing countries and countries with economies in transition, including to senior posts;

18. *Requests once again* the Secretary-General to take the necessary measures to ensure that particular attention is paid to recruiting personnel from unrepresented and underrepresented Member States, in particular from developing countries and countries with economies in transition, for the existing vacancies and for additional posts in the Office of the High Commissioner to ensure an equitable geographical distribution and a better gender balance, giving particular priority in this regard to recruitment for high-level and Professional posts;

19. *Urges* donors to make their voluntary contributions unearmarked, as much as possible, to enable the High Commissioner flexibility in the allocation of staff and resources between the different activities and projects;

20. *Requests once again* the Secretary-General, in signing agreements with countries as a result of which Junior Professional Officers are provided to the Office of the High Commissioner, to urge those countries to ensure the allocation of additional financial resources to guarantee that personnel from developing countries are able to work as Junior Professional Officers, with a view to conforming with the principle of equitable geographical distribution; furthermore, a permanent mechanism must be established, by virtue of which every Junior Professional Officer from a donor country who joins the Office will be matched by another Junior Professional Officer from a developing country;

21. *Emphasizes* the importance of openly advertising all posts, including ad hoc appointments for field operations, including the dissemination of detailed job descriptions among all States prior to the filling of those posts;

22. *Requests* the High Commissioner to ensure that Junior Professional Officers are not given either sensitive political or core assignments where their impartiality may be questioned;

23. *Reiterates* the standing rule that consultants shall not perform functions of staff members of the Organization nor have any representative or supervisory responsibility, and calls upon the High Commissioner to:

(*a*) Refrain from using consultants to carry out functions assigned to established posts;

(*b*) Strictly observe the existing rules and relevant resolutions of the General Assembly in hiring consultants, in particular to ensure and certify that expertise is not available within the Organization before deciding to hire them;

(*c*) Make greater efforts to ensure geographical balance among qualified consultants and individual contractors;

24. *Reaffirms* the importance of ensuring universality, objectivity and non-selectivity in the consideration of human rights issues and requests the High Commissioner to continue to ensure that the fulfilment of her mandate and that of the Office is guided by these principles;

25. *Stresses* that the staff of the Office of the High Commissioner need to maintain their neutrality and fully respect the independence of the work of all mechanisms of the Commission and the treaty bodies, while providing support to their functioning;

26. *Requests* the High Commissioner:

(*a*) To ensure that the one-time post regularization of all core posts at headquarters and in the field results in a new and balanced geographical distribution of the staff of the Office, advertising the posts to be regularized and filling them in a transparent and competitive manner, following United Nations practices and provisions;

(*b*) To prepare a comprehensive action plan aimed at reducing the current imbalance in the staff, indicating specific targets and deadlines to be achieved;

(*c*) To avoid overlapping and duplication of functions and to work towards the goal of increased effectiveness and improved management, taking into account the relevant resolutions and decisions, including the request of the General Assembly for streamlined management, as well as the recommendations made in that regard, when proposing new structures, posts and reclassifications of posts, including those of senior management, with a view to ensuring optimal leadership and consistency of structures;

(*d*) To use also the programmes and funds for technical cooperation and human rights education for the training of national technical personnel in developing countries and countries with economies in transition through the use of Junior Professional Officers from these countries, with a view to guaranteeing that personnel from developing countries are able to work as Junior Professional Officers and that every Junior Professional Officer from a donor country who joins the Office will be matched by another Junior Professional Officer from a developing country;

(*e*) To submit a comprehensive report on the implementation of the present resolution to the Commission at its sixty-second session, which should include:

(i) The composition of the staff of the Office, organized by the five United Nations regional groups established by the General Assembly (African States, Asian States, Latin American and Caribbean States, Western European and Other States and Eastern European States) and reflecting, inter alia, grade, nationality and gender, including with regard to non-regular staff;

(ii) The action plan, as well as the measures adopted to implement it, concrete achievements and their results;

(iii) The measures taken to implement other actions requested by the present resolution and their achievements;

(iv) Any further recommendations to improve the current situation;

27. *Draws the attention* of the General Assembly to the present resolution in the context of the consideration of the agenda item on human resources management;

28. *Invites* the General Assembly and its appropriate subsidiary bodies, inter alia, the Advisory Committee on Administrative and Budgetary Questions, the Committee for Programme and Coordination and the Fifth Committee of the Assembly, to give due consideration to the present resolution and to the report of the Joint Inspection Unit entitled "Management review of the Office of the United Nations High Commissioner for Human Rights", in particular to any other organization, management, executive direction, structure, administrative, financial and more technical human resources management issues and recommendations contained therein and not addressed in this resolution;

29. *Recalls its request* to the Joint Inspection Unit to assist the Commission to monitor systematically the implementation of the present resolution and to submit a follow-up comprehensive review of the implementation of the decisions of the Commission and other United Nations intergovernmental bodies regarding the management, programmes and administration of the Office of the High Commissioner, in particular, with regard to their impact on the recruitment policies and the composition of the staff, to the Commission at its sixty-third session and to the General Assembly at its sixty-first session, containing any concrete proposals for corrective action, if required, for the implementation of the relevant intergovernmental bodies' resolutions, including the present resolution;

30. *Decides* to consider this matter under the same agenda item at its sixty-second session.

59th meeting
20 April 2005
[Adopted by a recorded vote of 36 votes to 15,
with 2 abstentions. See chap. XVIII.]

ANNEX I

Staff of the Office of the United Nations High Commissioner for Human Rights

*Geographical distribution (by number of posts)**

Regional groups	Posts subject to geographical distribution					Posts not subject to geographical distribution					Total				
	2001	2002	2003	2004	2005	2001	2002	2003	2004	2005	2001	2002	2003	2004	2005
African States	10	12	10	9	6	21	22	24	25	22	31	34	34	34	28
Asian States	13	17	16	16	18	6	9	8	11	14	19	26	24	27	32
Latin America and Caribbean States	9	9	9	9	7	10	13	15	19	21	19	22	24	28	28
Eastern Europe States	5	5	6	7	7	6	6	7	7	6	11	11	13	14	13
Western Europe and Other States**	41	48	45	46	50	69	85	96	104	110	110	133	141	150	160
Total of posts	78	91	86	87	88	112	135	150	166	173	190	226	236	253	261

* Figures for 2005 were based on tables 1 and 2 of the report of the High Commissioner (E/CN.4/2005/109). The figures for the earlier years were based on the reports of the High Commissioner for those years.

** Includes Switzerland and Israel.

ANNEX II

Staff of the Office of the United Nations High Commissioner for Human Rights

Geographical distribution

(*Percentage*)*

Regional groups	Posts subject to geographical distribution					Posts not subject to geographical distribution					Total				
	2001	2002	2003	2004	2005	2001	2002	2003	2004	2005	2001	2002	2003	2004	2005
African States	13	13	11.6	10.3	6.8	19	16	16	15.1	12.7	16	15	14.4	13.4	10.7
Asian States	17	19	18.6	18.4	20.4	5	7	5	6.6	8.1	10	11	10.1	10.7	12.3
Latin America and Caribbean States	11	10	10.5	10.3	8	9	10	10	11.4	12.1	10	10	10.1	11.1	10.7
Eastern Europe States	6	5	7	8.0	8	5	4	5	4.2	3.5	6	5	5.5	5.5	5
Western Europe and Other States**	53	53	52.3	52.9	56.8	62	63	64	62.7	63.6	58	59	59.8	59.3	61.3

* Percentages for 2005 were calculated based on tables 1 and 2 of the report of the High Commissioner (E/CN.4/2005/109). The figures for the earlier years were calculated based on the reports of the High Commissioner for those years.

** Includes Switzerland and Israel.

ANNEX III

Representation of developed and developing countries on the staff of the Office of the United Nations High Commissioner for Human Rights by categories of representation at the whole Secretariat and by type of posts: subject and not subject to equitable geographical distribution

*Distribution (by number of countries)**

	Developed countries					Developing countries					Total all countries
	Countries represented only in geographically distributed posts in the Office	Countries represented only in posts not subject to geographical distribution	Countries represented in both categories	Countries with no representation at all at the Office	Total	Countries represented only in geographically distributed posts in the Office	Countries represented only in posts not subject to geographical distribution	Countries represented in both categories	Countries with no representation at all at the Office	Total	
Unrepresented				2	2				13	13	15
Underrepresented		1	2		3	2		1	4	7	10
Overrepresented	2	3	3		8	1	5	3	4	13	21
Within ranges	2	9	8	11	30	11	15	8	81	115	145
Total	4	13	13	13	43	14	20	12	102	148	191

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* The classification of countries by categories of representation in the staff is from the lists of the report of the Secretary-General (A/59/299) as at 30 June 2004. The classification of developing countries is based on the list of aid beneficiaries of the Development Assistance Committee of the Organization for Economic Cooperation and Development.

2005/73. Regional arrangements for the promotion and protection of human rights

The Commission on Human Rights,

Recalling its resolution 1993/51 of 9 March 1993 and its subsequent resolutions concerning regional arrangements for the promotion and protection of human rights,

Recalling also General Assembly resolution 32/127 of 16 December 1977 and its subsequent resolutions in this regard,

Bearing in mind the relevant resolutions of the Commission concerning advisory services and technical cooperation in the field of human rights, including its most recent on that subject, resolution 2004/81 of 21 April 2004,

Bearing in mind also the Vienna Declaration and Programme of Action adopted on 25 June 1993 by the World Conference on Human Rights (A/CONF.157/23), which reiterates, inter alia, the need to consider the possibility of establishing regional and subregional arrangements for the promotion and protection of human rights where they do not already exist,

Recalling that the World Conference recommended that more resources should be made available for the strengthening of regional arrangements for the promotion and protection of human rights under the programme of technical cooperation in the field of human rights of the Office of the United Nations High Commissioner for Human Rights,

Reaffirming that regional arrangements play an important role in promoting and protecting human rights and should reinforce universal human rights standards, as contained in international human rights instruments,

Noting the progress achieved thus far in the promotion and protection of human rights at the regional level under the auspices of the United Nations, the specialized agencies and the regional intergovernmental organizations,

Considering that cooperation between the United Nations and regional arrangements in the field of human rights continues to be both substantive and supportive and that possibilities exist for increased cooperation,

Welcoming the fact that the Office of the High Commissioner has been systematically pursuing a regional and subregional approach through a variety of complementary means and methods, in order to maximize the impact of the activities of the United Nations at the national level,

1. *Takes notes with satisfaction* of the report of the Secretary-General on regional arrangements for the promotion and protection of human rights (E/CN.4/2005/104);

2. *Welcomes* the continuing cooperation and assistance of the Office of the High Commissioner in the further strengthening of the existing regional arrangements and regional machinery for the promotion and protection of human rights, in particular through technical cooperation which is aimed at national capacity-building, public information and education, with a view to exchanging information and experience in the field of human rights;

3. *Also welcomes*, in that respect, the close cooperation of the Office of the High Commissioner in the organization of regional and subregional training courses and workshops in the field of human rights, high-level governmental expert meetings and regional conferences of national human rights institutions, aimed at creating greater understanding in the regions of issues concerning the promotion and protection of human rights, improving procedures and examining the various systems for the promotion and protection of universally accepted human rights standards and identifying obstacles to ratification of the principal international human rights treaties and strategies to overcome them;

4. *Recognizes*, therefore, that progress in promoting and protecting all human rights depends primarily on efforts made at the national and local levels, and that the regional approach should imply intensive cooperation and coordination with all partners involved, while bearing in mind the importance of international cooperation;

5. *Stresses* the importance of the programme of technical cooperation in the field of human rights, renews its appeal to all Governments to consider making use of the possibilities offered by the United Nations under this programme for organizing information or training courses at the national level on the application of international human rights standards and the experience of relevant international bodies, and notes with satisfaction, in that respect, the establishment of technical cooperation projects with Governments of all regions;

6. *Welcomes* the growing exchanges between the United Nations and the United Nations human rights treaty bodies, on the one hand, and regional organizations, such as the Council of Europe, the Organization for Security and Cooperation in Europe, the League of Arab States, the Inter-American Commission on Human Rights, the African Commission on Human and Peoples' Rights, the International Organization of la Francophonie and other regional institutions, on the other;

7. *Also welcomes* the placement by the Office of the High Commissioner of regional representatives in subregions and in regional commissions, in particular the placement of a senior human rights adviser with the United Nations Country Team in Fiji to cover the Pacific region as well as the deployment of a regional adviser for Central Asia;

8. *Further welcomes* the progress achieved in the establishment of regional and subregional arrangements for the promotion and protection of human rights, and in this regard, notes with interest:

(*a*) The positive experience of the regional and subregional presences of the Office of the High Commissioner in southern, central and eastern Africa aiming at the strengthening of national and subregional human rights capacities;

(*b*) The support provided by the Office to the African Union for the strengthening of its human rights system, and welcoming in this regard the entry into force of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights;

(*c*) The holding of African Dialogue III, "Strengthening human rights protection systems in Africa: the role of the judiciary and parliaments", organized by the Office, in Addis Ababa from 6 to 8 December 2004;

(*d*) The increased, valuable sharing of concrete national experiences at the twelfth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian-Pacific Region, held in Doha from 2 to 4 March 2004, including the adoption of a plan of action for 2004-2006, regarding the implementation of the Framework of Regional Technical Cooperation Programme in Asia and the Pacific (E/CN.4/1998/50, annex II), which contributes to the enhancement of the promotion and protection of human rights in the region, and welcomes in this regard the offer by the Government of Qatar to host in Doha a United Nations centre for human rights in South-West Asia and the Arab Region in order to support the development of national human rights capacities and infrastructures;

(*e*) The ongoing consultations aimed at the possible establishment of regional human rights arrangements held in the context of the Framework among Governments with the support and advice of national human rights institutions and civil society organizations of the Asian-Pacific Region;

(*f*) Activities undertaken in the framework of the regional project of the Office for the promotion and protection of human rights in Latin America and the Caribbean and the strengthening of the cooperation between the Office of the High Commissioner, the Organization of American States and the Inter-American Commission on Human Rights;

(*g*) Activities undertaken in the framework of cooperation between the Office and the League of Arab States and the intention to develop a broader technical cooperation programme in cooperation with the League following the recent adoption of the Arab Charter on Human Rights;

(*h*) The continued cooperation towards the realization of universal standards between the Office and regional organizations in Europe and Central Asia, namely the Organization for Security and Cooperation in Europe, the Council of Europe and the European Union, in particular for activities at the country level, as well as the agreements between the European Commission and the Office for financing technical cooperation projects;

9. *Invites* States in areas in which regional arrangements in the field of human rights do not yet exist to consider concluding agreements with a view to establishing, within their respective regions, suitable regional machinery for the promotion and protection of human rights;

10. *Requests* the Secretary-General to continue to strengthen exchanges between the United Nations and regional intergovernmental organizations dealing with human rights and to make available adequate resources from within the regular budget of technical cooperation to the activities of the Office of the High Commissioner to promote regional arrangements;

11. *Requests* the Office of the High Commissioner to continue to pay special attention to the most appropriate ways of assisting countries of the various regions, at their request, under the programme of technical cooperation and to make, where necessary, relevant recommendations, and in this regard welcomes the decision of the Office to strengthen national protection systems in accordance with Action 2 of the reform programme of the Secretary-General (see A/57/387 and Corr.1);

12. *Invites* the Secretary-General, in the report he will submit to the General Assembly at its sixty-first session, to provide information on progress made since the adoption of the Vienna Declaration and Programme of Action on reinforcing the exchange of information and extending collaboration between the organs of the United Nations dealing with human rights and regional organizations in the field of the promotion and protection of human rights;

13. *Requests* the Secretary-General to submit to the Commission at its sixty-third session a report on the state of regional arrangements for the promotion and protection of human rights, to formulate concrete proposals and recommendations on ways and means to strengthen cooperation between United Nations and regional arrangements in the field of human rights and to include therein the results of action taken in pursuance of the present resolution;

14. *Decides* to consider this question further at its sixty-third session.

59th meeting
20 April 2005
[Adopted without a vote. See chap. XVIII.]

2005/74. National institutions for the promotion and protection of human rights

The Commission on Human Rights,

Recalling the relevant resolutions of the General Assembly, notably resolution 48/134 of 20 December 1993, and its own resolutions concerning national institutions for the promotion and protection of human rights,

Welcoming international recognition of the importance of establishing and strengthening independent, pluralistic national institutions for the promotion and protection of human rights consistent with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) annexed to General Assembly resolution 48/134,

Convinced of the important role such national institutions play in promoting and protecting human rights and fundamental freedoms and in developing and enhancing public awareness of those rights and freedoms,

Recognizing that it is the prerogative of each State to choose, for the establishment of a national institution, the legal framework that is best suited to its particular needs and circumstances to ensure that human rights are promoted and protected at the national level in accordance with international human rights standards,

Recalling the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), which reaffirmed the important and constructive role played by national human rights institutions and their role in remedying human rights violations and in the dissemination of human rights information and education concerning human rights, *Recalling also* the Programme of Action (see A/CONF.157/NI/6) adopted by national institutions meeting in Vienna during the World Conference on Human Rights, which recommended that United Nations activities and programmes should be reinforced to meet the requests for assistance from States wishing to establish or strengthen their national institutions for the promotion and protection of human rights,

Welcoming the strengthening of international cooperation among national human rights institutions, including through the International Coordinating Committee of National Institutions,

Noting the outcomes of the seventh International Conference for National Institutions for the Promotion and Protection of Human Rights, held in Seoul from 14 to 17 September 2004, the positive contribution of non-governmental organizations and the Seoul Declaration on upholding human rights during conflict and while countering terrorism,

Welcoming the strengthening in all regions of regional cooperation among national human rights institutions and between national human rights institutions and other regional human rights forums,

Noting efforts to strengthen regional human rights networks, including the fifth European meeting of national institutions for the promotion and protection of human rights, held in Berlin on 26 and 27 November 2004, the third Round Table of National Human Rights Institutions organized jointly by the German Institute for Human Rights and the Commissioner for Human Rights of the Council of Europe in Berlin on 25 and 26 November 2004, the first African Union Conference of National Human Rights Institutions held in Addis Ababa from 18 to 21 October 2004, the continuing work of the Network of National Human Rights Institutions of the Americas, the Network's third General Assembly held in Buenos Aires from 9 to 11 June 2004, the international seminar on irregular migration and trafficking of people, human rights and national institutions, held in Campeche, Mexico, from 10 to 11 March 2005, and the work of the Asia Pacific Forum of National Human Rights Institutions, including the holding of their ninth annual meeting in Seoul on 13 September 2004,

Noting the conclusions and programme of action adopted at the twelfth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific Region held in Doha from 2 to 4 March 2004 with regard to the role of national institutions (see E/CN.4/2004/89),

Noting also the creation of a francophone group of national institutions for human rights in cooperation with the International Organization of la Francophonie,

Noting further the work of the Ibero-American Federation of Ombudsmen as a forum for cooperation and exchange of experience,

Welcoming the call of the twelfth Workshop for the Promotion and Protection of Human Rights in the Asia-Pacific Region for the Office of the United Nations High Commissioner for Human Rights to support the subregional workshop for the Arab Region on national human rights protection systems, including national human rights institutions, held in Cairo, from 6 to 8 March 2005 with the support of the Egyptian National Council for Human Rights, *Noting* the valuable role played and contributions made by national institutions in United Nations meetings dealing with human rights and the importance of their continued appropriate participation,

1. *Reaffirms* the importance of the development of effective, independent, pluralistic national institutions for the promotion and protection of human rights consistent with the Paris Principles;

2. *Reiterates* the continued importance of the Paris Principles as a set of important recommended guidelines of practice for national institutions, recognizes the value of further strengthening their application and encourages States, national institutions and other interested parties to consider ways to achieve this;

3. *Welcomes* the decisions of a growing number of States to establish, or to consider establishing, national institutions consistent with the Paris Principles;

4. *Encourages* States to establish or, where they already exist, to strengthen such institutions, as outlined in the Vienna Declaration and Programme of Action;

5. *Recognizes* that national institutions have a crucial role to play in promoting and ensuring the indivisibility and interdependence of all human rights and calls upon all States to ensure that all human rights are appropriately reflected in the mandate of their national human rights institutions when established;

6. *Takes note with satisfaction* of the efforts of those States that have provided their national institutions with more autonomy and independence, including through giving them an investigative role or enhancing such a role, and encourages other Governments to consider taking similar steps;

7. *Recognizes* the important and constructive role that individuals, groups and organs of society can play for the better promotion and protection of human rights and encourages efforts by national institutions to establish partnerships and increase cooperation with civil society;

8. *Welcomes* greater efforts by the Office of the High Commissioner to engage national institutions as partners and provide them with opportunities to exchange experiences and best practices amongst themselves, and in this context welcomes:

(*a*) The International Workshop of National Institutions for the Promotion and Protection of Human Rights on the theme of causes, effects and consequences of the migratory phenomenon and human rights protection, held in Zacatecas, Mexico, on 14 and 15 October 2004, organized by the National Human Rights Commission of Mexico and the Human Rights Commission of Zacatecas;

(*b*) The Round Table of National Human Rights Institutions and National Machineries for the Advancement of Women held in Ouarzazate, Morocco, from 15 to 19 November 2004 with the Conseil consultatif des droits de l'homme of Morocco in cooperation with the Division for the Advancement of Women, Department of Economic and Social Affairs of the Secretariat of the United Nations; and (*c*) The International Round Table on National Institutions and Good Governance held in Suva from 13 to 15 December 2004 with the Fiji Human Rights Commission;

9. *Also welcomes* the engagement of the Office of the High Commissioner with concerned national institutions on a regional level in relation to conflict prevention as well as the prevention of torture;

10. *Further welcomes* the practice of national institutions and coordinating committees of such institutions that conform with the Paris Principles of participating in an appropriate manner in their own right in meetings of the Commission on Human Rights and its subsidiary bodies;

11. *Welcomes* the report of the Secretary-General (E/CN.4/2005/107) on enhancing the participation of national human rights institutions in the work of the Commission and its subsidiary bodies and, in accordance with its recommendations, decides to request the Chairperson of the sixty-first session of the Commission, in consultation with all relevant stakeholders, to finalize, by the sixty-second session, the modalities for:

(*a*) Permitting national institutions that are accredited by the Accreditation Subcommittee of the International Coordinating Committee of National Institutions under the auspices of the Office of the High Commissioner, and coordinating committees of such institutions, to speak, as outlined in the report, within their mandates, under all items of the Commission's agenda, while stressing the need to maintain present good practices of management of the agenda and speaking times in the Commission, to allocate dedicated seating to national institutions for this purpose, and supporting their engagement with all the subsidiary bodies of the Commission;

(*b*) Continuing the practice of issuing documents from national institutions under their own symbol numbers;

12. *Welcomes* the continuation of the practice of national institutions convening regional meetings and encourages national institutions, in cooperation with the Office of the High Commissioner, to continue to organize similar events with Governments and non-governmental organizations in their own regions;

13. *Affirms* the important role of national human rights institutions, in cooperation with other mechanisms for the promotion and protection of human rights, in combating racial and related forms of discrimination and in the protection and promotion of the human rights of women and the rights of particularly vulnerable groups, including children and people with disabilities;

14. *Recognizes* the important and constructive role that national institutions can play in human rights education, including by the publication and dissemination of human rights material and other public information activities during the World Programme for Human Rights Education, and calls upon all existing national institutions to assist in the implementation of human rights education training programmes across all relevant sectors of society, including during the first phase of the World Programme (2005-2007), which will focus on primary and secondary education;

15. *Commends* the United Nations High Commissioner for Human Rights for the priority accorded to the establishment and strengthening of national human rights institutions, including through technical cooperation, and calls upon the Office of the High Commissioner:

(*a*) To continue to strengthen its coordinating role in this field and to allocate the resources necessary for this work from both core and extrabudgetary sources;

(*b*) To continue to support technical cooperation projects focused on specific practical challenges faced by national institutions, including in the area of complaint handling;

16. *Welcomes* efforts, through the Secretary-General's action 2 of the reform programme (see A/57/387 and Corr.1), to ensure effective engagement by all parts of the United Nations with national institutions and notes in this regard the importance of strengthening the National Institutions Unit within the Office of the High Commissioner, including with appropriate specialist expertise;

17. *Expresses its appreciation* to those Governments that have contributed additional resources for the purpose of the establishment and strengthening of national human rights institutions and their regional organizations;

18. *Welcomes* the important role of the International Coordinating Committee of National Institutions, in close cooperation with the Office of the High Commissioner, in assessing conformity with the Paris Principles and in assisting Governments and national institutions, when requested, to follow up on relevant resolutions and recommendations concerning the strengthening of national institutions;

19. *Requests* the Secretary-General to continue to provide, from within existing resources, the necessary assistance for holding meetings of the International Coordinating Committee during the sessions of the Commission, under the auspices of, and in cooperation with, the Office of the High Commissioner;

20. *Also requests* the Secretary-General to continue to provide, from within existing resources and from the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights, the necessary assistance for international and regional meetings of national institutions;

21. *Further requests* the Secretary-General to report to the Commission at its sixty-second session on the implementation of the present resolution and on ways and means of enhancing participation of national human rights institutions in the work of the Commission;

22. *Requests* the Secretary-General to report to the Commission at its sixty-second session on the process currently utilized by the International Coordinating Committee to accredit national institutions in compliance with the Paris Principles and to ensure that the process is strengthened with appropriate periodic review;

23. *Decides* to continue its consideration of this question at its sixty-second session.

59th meeting
20 April 2005
[Adopted without a vote. See chap. XVIII.]

2005/75. Advisory services and technical assistance for Burundi

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms,

Mindful that Burundi is required to implement all the international and regional instruments to which it is a party,

Recalling its resolution 2004/82 of 21 April 2004,

Taking note of the report submitted by the assessment mission on the establishment of an international judicial commission of inquiry for Burundi (S/2005/158), which visited the country in May 2004 pursuant to the Security Council decision of 23 January 2004 and at the request of the Transitional Government,

Acknowledging the efforts made by the United Nations, the African Union and the European Union to contribute to a peaceful settlement of the Burundi crisis,

Also acknowledging the Arusha Peace and Reconciliation Agreement for Burundi of 28 August 2000 and the duty of the Transitional Government to ensure the safety of all, civil population groups in particular, in Burundian territory, and hopeful that, during the electoral period and after the transition period, the issue of human rights will continue to receive special attention,

Mindful of the need to back efforts by the Government of Burundi to ensure the safety of humanitarian workers in accordance with the principles of international law,

Welcoming the progress achieved in the demobilization and reintegration programme,

Recognizing the important role of women in the reconciliation process and the search for peace,

Applauding the close cooperation between the Government of Burundi and the United Nations institutions in Burundi, in particular the United Nations Operation in Burundi and the Office of the United Nations High Commissioner for Human Rights, in consolidating the principles of human rights,

1. *Takes note* of the report of the independent expert (E/CN.4/2005/118) and of his first mission to Burundi, from 4 to 13 October 2004;

2. *Encourages* the Transitional Government to continue its actions aimed at associating all sectors of society in the work of national reconciliation through a structural dialogue and the restoration of a secure institutional order and a strong justice system that are safe and reassuring for everyone in order to restore democracy and peace in the interest of all elements of the population of Burundi;

3. *Welcomes* the adoption of laws concerning the establishment, organization, mandate and functioning of the National Defence Force and the National Police;

4. *Takes note with satisfaction* of the adoption of a law establishing the National Truth and Reconciliation Commission, as well as its promulgation by the President of the Republic on 5 January 2005, and encourages the Transitional Government to establish the Commission without delay;

5. *Requests* the Transitional Government to complete the electoral process while respecting freedom of opinion, expression and assembly in accordance with the Arusha Agreement;

6. *Encourages* the Transitional Government, with support from its partners, to continue the disarmament process as part of the national demobilization, disarmament and reintegration programme;

7. *Strongly condemns* all acts of violence and violations of human rights and international humanitarian law, and calls upon the Transitional Government to put an end, as soon as possible, to impunity within the context of the rule of law and ensure that those responsible for violence in general, and violence against women in particular, are brought to justice in accordance with international conventions and the law;

8. *Also condemns* the sale and illegal distribution of weapons and related materials, which hinder peace and security in the region;

9. *Demands* that the murderers of the Apostolic Nuncio, Mgr. Michael Courtney, be brought to justice;

10. *Takes note* of the recent statement by the Forces nationales de libération movement of Agathon Rwasa, in which he declares an end to the armed struggle and a return to the negotiating table with a view to concluding a peace agreement with the Government, and hopes that the regional initiative and mediation for peace in Burundi will consider, as soon as possible, this movement's position, and encourages all parties to settle conflicts by peaceful means;

11. *Encourages* the continuing voluntary repatriation of refugees hosted in the United Republic of Tanzania, pursuant to the tripartite agreements between the Office of the United Nations High Commissioner for Refugees and the Governments of the United Republic of Tanzania and Burundi, calls upon the parties concerned to establish and promote conditions permitting voluntary, permanent return in full security, recommends to the Transitional Government and humanitarian partners that they provide the displaced persons with humanitarian assistance and facilitate their return and reintegration, and encourages the Transitional Government to continue the settlement of disputes relating to the property of repatriated and displaced persons;

12. *Takes note* of the ratification by the Government of Burundi of the Rome Statute of the International Criminal Court (A/CONF.183/9) on 21 September 2004;

13. *Welcomes* the ratification by the Government of Burundi of the two optional protocols to the Convention on the Rights of the Child, on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography;

14. *Strongly encourages* the Transitional Government to continue to improve the status of women, promote the reintegration of female victims of armed conflict and violence, and improve their living conditions, while urging the parties that have not yet done so to stop using child soldiers;

15. *Welcomes* the fact that the proportion of at least 30 per cent female membership of institutions advocated in the Arusha Agreement has been established in the Constitution promulgated by the President of the Republic on 18 March 2005;

16. *Expresses its appreciation* of the efforts by the mediators of the United Nations, the African Union and the European Union in the search for a lasting solution to the problems of Burundi and urges them to continue in this direction by calling for significant assistance to be provided by the Government of Burundi so that it can meet the various challenges of development;

17. *Welcomes* the International Conference on Peace, Security, Democracy and Development in the Great Lakes Region, held at Dar es Salaam, United Republic of Tanzania, on 19 and 20 November 2004, and requests the international community to support the efforts of the Governments concerned to implement the conclusions and recommendations of that meeting;

18. *Urges* States and international, governmental and non-governmental organizations to coordinate planning initiatives so as to promote sustainable development with a view to encouraging national reconstruction and reconciliation, with due consideration given to the specificities of the crisis in Burundi;

19. *Urges* the Transitional Government to take the necessary steps to promote and protect all human rights in Burundi and to end violence against women and impunity in the country;

20. *Declares its profound concern* at the sexual violence against women and children and requests the Transitional Government to take, in cooperation with civil society, special measures to protect women and children;

21. *Urges* the Transitional Government to establish an independent national human rights commission, in conformity with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles);

22. *Expresses its concern* regarding the honouring of the pledges made in Brussels in January 2004 at the Forum of Partners for Development in Burundi and calls on all parties concerned to honour those pledges in order to give impetus to the new drive for peace and national reconciliation and reconstruction;

23. *Strongly urges* the international community to make greater assistance available to the judicial system and the National Commission for the Rehabilitation of *Sinistrés* (Survivors), and to increase the financial and human resources available to the field office of the Office of the United Nations High Commissioner for Human Rights in Burundi so that it can improve its work in the field and carry out its mandate effectively, and thanks all partners who have provided support in this area;

24. *Condemns*, with the greatest vigour, *the* massacre committed against the civilian Banyamulenge refugee population at Gatumba on 13 August 2004 and demands that the perpetrators of these killings and those who helped them be brought to justice;

25. *Calls upon* all parties to take measures to prevent the proliferation of small arms among the civilian population;

26. *Requests* the United Nations High Commissioner for Human Rights, in close consultation with the Government of Burundi, to continue her programme of technical assistance;

27. *Also requests* the independent expert to continue to study the situation of human rights in Burundi, and requests him to submit an interim report to the General Assembly at its sixtieth session, and to report thereon to the Commission at its sixty-second session;

28. *Decides* to continue its consideration of this question at its sixty-second session, under the same agenda item.

59th meeting
20 April 2005
[Adopted without a vote. See chap. XIX.]

2005/76. Assistance to Sierra Leone in the field of human rights

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights,

Recalling all its previous resolutions on the situation of human rights in Sierra Leone as well as relevant resolutions of the Security Council,

Welcoming the essential work being carried out by the Special Court for Sierra Leone, including the establishment of a second trial chamber, to address justice and impunity, and welcoming also recommendations of the Truth and Reconciliation Commission aimed at promoting reconciliation and national healing, and looking forward to the publication of the report and the Government White Paper on it,

Expressing concern that ex-combatants who were involved in fighting in Liberia and Côte d'Ivoire are now returning home to Sierra Leone and could threaten the progress achieved in Sierra Leone,

Expressing concern also at increasing reports of child trafficking, including external trafficking involving the moving of orphans outside of Sierra Leone,

Expressing concern further at the plight of amputees and other mutilated victims of the armed conflict, *Recognizing* the importance of good governance and transparency in the promotion of human rights,

Recognizing also the importance of technical cooperation, advisory services and capacity-building for the promotion and protection of human rights which will contribute to peace, stability and sustainable development in Sierra Leone,

1. *Welcomes*:

(*a*) The report of the United Nations High Commissioner for Human Rights (E/CN.4/2005/113), including her conclusion that the reporting period had witnessed a continuing consolidation of progress in the field of political and civil rights in Sierra Leone, but noting however her conclusion that this progress remains at risk due to shortcomings in the area of economic, social and cultural rights, the report of the High Commissioner to the General Assembly (see A/59/340), and the twenty-third and twenty-fourth reports of the Secretary-General on the United Nations Mission in Sierra Leone (S/2004/724 and S/2004/965), including the work of the Mission's Human Rights Section;

(*b*) The ongoing work of the Special Court for Sierra Leone to bring to justice those persons who bear the greatest responsibility for the commission of war crimes, crimes against humanity and other serious violations of international humanitarian law, as well as crimes under relevant Sierra Leonean law committed within the territory of Sierra Leone since 30 November 1996;

(*c*) The enactment in July 2004 of legislation establishing the National Human Rights Commission of Sierra Leone, the presentation to Parliament of bills for an Anti-Human Trafficking Act and a Child Rights Act, and the production by the Law Reform Commission of a draft bill on sexual offences;

(*d*) The activities undertaken by United Nations agencies, the National Commission for Social Action and non-governmental and other organizations to facilitate transition from relief to reconciliation, recovery and sustainable peace and development, including access to food, education and health;

(*e*) Legislative measures taken by the Government to promote and protect the human rights of women;

2. *Urges* the Government of Sierra Leone:

(*a*) To continue to promote and protect human rights in Sierra Leone, inter alia through the early constitution and effective functioning of the National Human Rights Commission of Sierra Leone, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), further strengthening of its judicial system as well as continued efforts to promote good governance and transparency, and to continue to work closely and strengthen its cooperation with the Office of the United Nations High Commissioner for Human Rights;

(*b*) To continue to give priority attention, in cooperation with the international community, to programmes aimed at addressing the plight and special needs of all mutilated victims and their dependants, and of women and children in its care, in particular those sexually abused and gravely traumatized and displaced as a result of the conflict, and taking also into consideration the needs of female ex-combatants and female camp followers who did not benefit from disarmament, demobilization and reintegration;

(*c*) To continue to facilitate, in cooperation with the international community, the effective functioning of the National Commission for War-Affected Children;

(*d*) To fully implement the legislative measures taken to promote and protect the human rights of women and to consider developing further programmes aimed at combating discrimination against women;

3. *Decides*:

(*a*) To request the international community to continue its support and provide technical assistance to the judicial system in Sierra Leone, including the juvenile justice system, to assist in the early constitution and functioning of the National Human Rights Commission of Sierra Leone, and to support the Government of Sierra Leone in seeking durable solutions to the problem of international trafficking of persons, particularly children, orphans and juveniles;

(*b*) To request the High Commissioner and the international community to assist the Government of Sierra Leone in strengthening its capacity to continue to undertake, as a matter of urgency, the review, revision and updating of national legislation, in particular those areas of legislation that affect women, children and other vulnerable segments of society, and to continue to assist the Government of Sierra Leone in disseminating the report of the Truth and Reconciliation Commission and encourage timely publication of the Government White Paper and the implementation of the Commission's recommendations;

(*c*) To request the High Commissioner and the international community to continue to work closely with national protection institutions, including the National Human Rights Commission of Sierra Leone, the National Commission for Democracy and civil society organizations such as the National Forum on Human Rights, in monitoring the promotion and protection of human rights;

(*d*) To request the Secretary-General and the High Commissioner to continue to give full consideration to the maintenance of a United Nations human rights field presence when the activities of the United Nations Mission in Sierra Leone are completed;

(*e*) To urge all States to consider making pledges and/or to submit their outstanding pledged funds to meet the budget of the Special Court for Sierra Leone and to support requests by the Secretary-General to the General Assembly to consider further subvention for the functioning of the Special Court from the regular budget of the United Nations, and urges all States to cooperate fully with the Special Court;

(*f*) To request the High Commissioner to report to the General Assembly at its sixtieth session and to the Commission at its sixty-second session on assistance to Sierra Leone in the field of human rights, including with reference to the Human Rights Section of the Mission;

(*g*) To consider this question at its sixty-second session.

59th meeting
20 April 2005
[Adopted without a vote. See chap. XIX.]

2005/77. Technical cooperation and advisory services in Cambodia

The Commission on Human Rights,

Bearing in mind its resolution 2004/79 of 21 April 2004 and previous relevant resolutions,

Welcoming the report of the Special Representative of the Secretary-General for human rights in Cambodia (E/CN.4/2005/116), as well as the report of the Secretary-General on the role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights (E/CN.4/2005/111),

Recognizing that the tragic recent history of Cambodia requires special measures to ensure the protection of human rights and the non-return to the policies and practices of the past, as stipulated in the Agreement on the Comprehensive Political Settlement of the Cambodia Conflict, signed in Paris on 23 October 1991,

Welcoming the address of the King of Cambodia, Norodom Sihamoni, on the occasion of his coronation, which referred to the Universal Declaration of Human Rights,

I. KHMER ROUGE TRIBUNAL

1. *Welcomes* the ratification by Cambodia of the Agreement signed on 6 June 2003 between the United Nations and the Government of Cambodia to establish the Extraordinary Chambers in the courts of Cambodia exercising their jurisdiction in accordance with international standards of justice, fairness and due process as set out in the Agreement;

2. *Urges* the Secretary-General and the Government of Cambodia to take all necessary measures for the early establishment of the Extraordinary Chambers, including the fulfilment of financial and legal obligations;

3. *Welcomes* the fact that a number of States have made commitments to provide assistance, including financial and personnel support, to the Extraordinary Chambers and appeals to other members of the international community to provide such support in accordance with General Assembly resolution 57/228 B of 13 May 2003, and urges the Secretary-General to notify that the legal requirements for entry into force of the Agreement have been complied with;

II. DEMOCRACY AND SITUATION OF HUMAN RIGHTS

4. *Welcomes*:

(*a*) The formation of the new Government on 15 July 2004 based on the result of the general election held in July 2003;

(*b*) Cambodia's progress in improving its human rights situation for the past decade in a range of fields, in cooperation with the United Nations and non-governmental organizations, including freedom of media, freedom of religion, combating child labour and sexual exploitation, and progress to improve democratic institutions;

(*c*) Cambodia's agreement, through participation in the Consultative Group on Cambodia, to improve good governance through the setting of benchmarks and regular review and actions, inter alia the passing of a draft anti-corruption law;

(*d*) The signing of the new Memorandum of Understanding between the Government of Cambodia and the Office of the United Nations High Commissioner for Human Rights for the implementation of a technical cooperation programme on human rights, and encourages both parties to cooperate constructively with each other for further improvement of the situation of human rights in Cambodia;

5. *Expresses concern*, while noting the efforts of the Government of Cambodia, that some human rights violations continue, especially those related to the rule of law, the judiciary, human trafficking, violence against political and civil activists, impunity and corruption;

6. *Urges* the Government of Cambodia:

(*a*) To continue to strengthen its efforts to establish the rule of law, including through the adoption and implementation of essential laws and codes for establishing a democratic society, and to continue to address as a matter of priority, inter alia the problem of impunity, and to enhance its efforts to investigate urgently and to prosecute, in accordance with due process of law and international human rights standards, all those who have perpetrated serious crimes, including violations of human rights;

(*b*) To continue to strengthen its efforts at judicial reform, especially to ensure the independence, impartiality, transparency and effectiveness of the judicial system as a whole and to combat corruption and impunity;

(*c*) To continue its efforts to improve human rights, especially those of women and children, and to make additional efforts, in concert with the international community, to combat key problems such as human trafficking, issues related to poverty, sexual violence, domestic violence and sexual exploitation of women and children;

(*d*) To strengthen its efforts for resolving equitably and expeditiously land ownership issues in a fair and open manner in accordance with the spirit of the Prime Minister's speech of 18 October 2004 as well as the Land Law;

(*e*) To take all steps to meet its obligations under international human rights instruments and to continue to cooperate with and support United Nations bodies, including the Office of the High Commissioner;

(*f*) To continue to create an environment conducive to the conduct of legitimate political activity as well as to support the role of non-governmental organizations in order to solidify democratic development in Cambodia;

(*g*) To continue its efforts to further improve good governance;

III. CONCLUSION

7. *Invites* the Secretary-General, agencies of the United Nations system present in Cambodia, as well as the international community, including non-governmental organizations, to continue to work with the Government of Cambodia in improving democracy as well as ensuring the protection and promotion of the human rights of all people in Cambodia, including by providing assistance, inter alia in the fields of:

(*a*) Drafting various laws necessary for protecting and promoting human rights;

(*b*) Capacity-building for strengthening legal institutions, including improving the quality of judges, prosecutors, lawyers and court staff;

(*c*) Capacity-building for strengthening national institutions for criminal investigation and law enforcement as well as providing equipment necessary for these ends;

(*d*) Assisting assessment of progress on human rights issues;

8. *Requests* the Secretary-General to report to the Commission at its sixty-second session on the role and achievements of the Office of the High Commissioner in assisting the Government and the people of Cambodia in the promotion and protection of human rights and on the recommendations made by the Special Representative of the Secretary-General for human rights in Cambodia on matters within his mandate;

9. *Decides* to continue its consideration of the situation of human rights in Cambodia at its sixty-second session.

59th meeting
20 April 2005
[Adopted without a vote. See chap. XIX.]

2005/78. Technical cooperation and advisory services in Nepal

The Commission on Human Rights,

Recalling that Nepal, having ratified six major human rights treaties, has freely accepted the obligation to protect the human rights of the people of Nepal, *Recalling* the importance of the implementation of Security Council resolutions 1265 (1999) of 17 September 1999 and 1296 (2000) of 19 April 2000 on the protection of civilians in armed conflict, 1325 (2000) of 31 October 2000 on women and peace and security and 1539 (2004) of 22 April 2004 on children in armed conflict,

Seriously concerned at the growing number of civilian victims of the ongoing conflict since the breakdown of the ceasefire on 27 August 2003,

Deeply concerned about the situation of human rights in Nepal, including violations attributed to the security forces, in particular unlawful killings, all forms of sexual violence, forced displacement and disappearances, and attacks against the physical integrity and safety of political leaders and party activists, human rights defenders, journalists and others and also deeply concerned about the prevailing situation of impunity,

Strongly condemning all acts of violence against civilians and other criminal acts such as attacks against life, physical integrity and personal liberty and safety, including unlawful killings, all forms of sexual violence and extortion, committed by members of the Communist Party of Nepal-Maoist,

Conscious of the fact that its appeals are mainly directed to the Government of Nepal as it is subject to international obligations, and additionally gravely concerned at the serious breaches of humanitarian law committed by members of the Communist Party of Nepal-Maoist, which may constitute war crimes and crimes against humanity,

Recalling the Government of Nepal's declaration of commitment of 26 March 2004 on the implementation of human rights and international humanitarian law,

Bearing in mind the statement of the Chairperson of the Commission on human rights assistance to Nepal of 21 April 2004 (E/2004/23-E/CN.4/2004/127, para. 716),

Taking note of the efforts of the Government of Nepal in establishing the Human Rights Promotion Centre in the Prime Minister's Office and human rights cells within the security forces,

Taking note of the report of the Working Group on Enforced or Involuntary Disappearances on its mission to Nepal (E/CN.4/2005/65/Add.1) and the report of the Office of the United Nations High Commissioner for Human Rights on its activities in Nepal, including technical cooperation (E/CN.4/2005/114),

Expressing its deep concern at the serious setback to multiparty democracy and the weakening of the rule of law through the King's proclamation and the declaration of a state of emergency of 1 February 2005,

Deeply concerned about the arbitrary arrests and secret detention, in particular of political leaders and activists, human rights defenders, journalists and others, and about continued enforced disappearances, as well as allegations of torture, *Welcoming* the signing of the agreement between the Government and the Office of the High Commissioner concerning the establishment of an office in Nepal on 11 April 2005, while also taking into account actions taken by the Government in some cases of human rights violations,

Taking note of the visit of the Representative of the Secretary-General on human rights of internally displaced persons and the invitation extended to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,

1. *Calls upon* the Government of Nepal urgently to restore the multiparty democratic institutions enshrined in the Constitution of Nepal and to respect the rule of law without exception;

2. *Requests* the Government of Nepal to bear in mind that, in accordance with article 4 of the International Covenant on Civil and Political Rights, certain rights, in particular the right to life and the right to freedom from torture and other cruel, inhuman or degrading treatment or punishment, are recognized as non-derogable in all circumstances and that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, and underlining the exceptional and temporary nature of any such derogations, as stated in general comment No. 29 (2001) on derogations to the Covenant during a state of public emergency of the Human Rights Committee;

3. *Calls upon* the Government of Nepal to reinstate immediately all civil and political rights, to cease all state of emergency-related and other arbitrary arrests, to lift the far-reaching censorship, to restore freedom of opinion, expression and the press as well as the freedom of association, to release immediately all detained political leaders and activists, human rights defenders, journalists and others, to allow all citizens to enter and exit the country freely and to respect all international and national obligations as well as the twenty-five points of the commitment of 26 March 2004, as freely undertaken by Nepal;

4. *Strongly condemns* the repeated practices of members of the Communist Party of Nepal-Maoist, such as:

(*a*) Unlawful killings, rape, extortions, forced displacement, mass abduction and forced recruitment and labour targeted at civilians;

(*b*) Persecution and attacks against the life, integrity and safety of political leaders and party members, human rights defenders, journalists, peace activists and others;

(*c*) Attempts to blockade Kathmandu and other urban areas with a view to cutting off supplies of food and other essential supplies to the civilian population;

5. *Firmly condemns* the recruitment and use of a large number of children in Maoist forces and urges the members of the Communist Party of Nepal-Maoist to stop the recruitment of children as well as to demobilize immediately those currently participating in these groups, as set out in Security Council resolution 1539 (2004);

6. *Strongly urges* the members of the Communist Party of Nepal-Maoist to comply with international humanitarian law and to respect the legitimate exercise of all human rights by the people of Nepal as well as immediately and unconditionally to cease and renounce violence, disarm, and enter into negotiations with the genuine intention of rejoining the political process, thereby helping to ensure that the people of Nepal are free to choose their own Government;

7. *Calls upon* all parties to the conflict to respect human rights and international humanitarian law, in particular common article 3 of the Geneva Conventions of 12 August 1949, as well as to act in conformity with all other relevant standards relating to the protection of civilians, particularly of women and children, and to allow the safe and unhindered access of humanitarian organizations to those in need of assistance;

8. *Urges* the Government of Nepal:

(*a*) To take all necessary measures to prevent and put an end to extrajudicial and summary killings, all forms of sexual violence, enforced disappearances, arbitrary arrests, illegal incommunicado detention as well as torture and other cruel, inhuman or degrading treatment or punishment;

(*b*) To take all appropriate measures to clarify the fate of all cases of persons allegedly victims of enforced disappearance, including, where appropriate, taking into account the work of the Investigative Commission on Disappearances of Nepal and international expert bodies in this field;

(*c*) To ensure that all anti-terrorism and security laws and measures are in accordance with all relevant international norms and standards as well as the Constitution of Nepal;

(*d*) To take appropriate measures to ensure the protection of the civil and political rights of political leaders and activists, human rights defenders, journalists and others;

(*e*) To take appropriate measures to protect women and girls from gender-based violence, as emphasized by the Security Council in resolution 1325 (2000), and to prevent and prosecute traffickers in women and children;

(*f*) To take all necessary measures to protect and respect the human rights of refugees, including the principle of non-refoulement;

(*g*) To combat impunity by ensuring that all allegations of violations of human rights and international humanitarian law are investigated promptly, independently and impartially and, as appropriate, prosecuted through the criminal justice system, in accordance with the Constitution of Nepal and international standards of justice, fairness and due process of law;

(*h*) To begin urgently a national dialogue with political parties to restore peace, stability, the promotion and protection of human rights and to safeguard democracy;

(*i*) To request the technical assistance of the international community and the United Nations in planning free and fair local elections, following their announcement;

9. *Calls upon* the Government of Nepal to provide urgent protection and assistance to internally displaced persons, taking account of the particular needs of women and children, to facilitate their safe return, reintegration and resettlement elsewhere in the country, as appropriate, and to develop appropriate policies and legislation in this regard, using the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex);

10. *Also calls upon* the Government of Nepal to ensure the independence and effectiveness of the judiciary, and therefore urges the Government to safeguard effective judicial remedies, in particular respect of habeas corpus orders, and to comply fully and faithfully with all judicial orders;

11. *Further calls upon* the Government of Nepal:

(*a*) To ensure continued independence, institutional continuity and stability of the National Human Rights Commission of Nepal in conformity with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) annexed to General Assembly resolution 48/134 of 20 December 1993 and the Human Rights Commission Act, 2053 (1997);

(*b*) To ensure full and unimpeded access without prior notice of the National Human Rights Commission of Nepal, the Office of the United Nations High Commissioner for Human Rights and the International Committee of the Red Cross to all persons held in detention, including places of detention under the authority of the Royal Nepalese Army;

(*c*) To provide necessary support to the National Human Rights Commission of Nepal, including its regional offices, in carrying out its statutory mandate and to ensure the necessary protection by, and cooperation of, governmental entities, including the security forces, to enable the members of the National Commission to promote and protect human rights in Nepal;

(*d*) To support the Office of the High Commissioner in its continued assistance to the National Human Rights Commission of Nepal;

12. *Welcomes* the efforts of the Government of Nepal to comply with the obligation to submit periodic reports to the respective treaty bodies, in particular under the International Covenant on Civil and Political Rights, and urges the Government to implement their recommendations, particularly the recent recommendations of the Committee on the Elimination of Discrimination against Women at its thirtieth session of January 2004 and of the Committee on the Elimination of Racial Discrimination at its sixty-fourth session of March 2004;

13. *Encourages* the Government of Nepal to extend invitations to the special procedures of the Commission on Human Rights to visit Nepal, to cooperate fully with them and implement their relevant recommendations, in particular the recent recommendation of the Working Group on Enforced or Involuntary Disappearances, specifically the recommendation to enforce a complete prohibition on incommunicado detention in military barracks;

14. *Requests* the United Nations High Commissioner for Human Rights , in accordance with the agreement signed with the Government of Nepal on 11 April 2005, to establish an office in Nepal with the mandate to assist the Nepalese authorities in developing policies and programmes for the promotion and protection of human rights, to monitor the situation of human rights and observance of international humanitarian law, including investigation and verification nationwide through international human rights officers and the establishment of field-based offices staffed with international personnel, to report in accordance with the agreement and to work in cooperation with other United Nations and international organizations based in Nepal in this regard;

15. *Calls upon* the Government of Nepal to implement promptly and fully the agreement with the Office of the High Commissioner and to extend its full cooperation to the office of the High Commissioner in Nepal, to assist the office in the discharge of its mandate and to take all necessary steps to ensure that its officials and experts on mission have free and unlimited access to any persons in Nepal whom they might wish to meet;

16. *Encourages* the international community to assist the Government of Nepal in implementing the present resolution;

17. *Requests* the High Commissioner to submit a report to the General Assembly at its sixtieth session and to the Commission at its sixty-second session on the human rights situation and the activities of her Office, including technical cooperation, in Nepal;

18. *Decides* to continue its consideration of the situation of human rights in Nepal at its sixty-second session under the same agenda item.

59th meeting
20 April 2005
[Adopted without a vote. See chap. XIX.]

2005/79. Rights of persons belonging to national or ethnic, religious and linguistic minorities

The Commission on Human Rights,

Recalling General Assembly resolution 47/135 of 18 December 1992, by which the Assembly adopted by consensus the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and subsequent resolutions of the Assembly and the Commission on the Declaration,

Recalling also its resolution 1995/24 of 3 March 1995 as well as Economic and Social Council resolution 1995/31 of 25 July 1995 and decision 1998/246 of 30 July 1998 on the mandate of the Working Group on Minorities of the Sub-Commission on the Promotion and Protection of Human Rights,

Taking note of Sub-Commission resolution 2004/13 of 9 August 2004 on the rights of minorities and the recommendations contained therein, *Affirming* that effective measures and the creation of favourable conditions for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, ensuring effective non-discrimination and equality for all, as well as full and effective participation in matters affecting them, contribute to the prevention and peaceful solution of human rights problems and situations involving minorities,

Concerned at the frequency and severity of disputes and conflicts involving minorities in many countries, and their often tragic consequences, and that persons belonging to minorities often suffer disproportionately the effects of conflict resulting in the violation of their human rights and are particularly vulnerable to displacement through, inter alia, population transfers, refugee flows and forced relocation,

Considering that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to political and social stability and peace and enrich the cultural diversity and heritage of society,

Emphasizing the importance of the timely identification of human rights problems and situations involving national or ethnic, religious and linguistic minorities,

Acknowledging the need to promote tolerance within societies, inter alia through education, in particular human rights education,

Welcoming the report of the United Nations High Commissioner for Human Rights (E/CN.4/2005/81) and noting the proposals for strengthening the international protection of the rights of persons belonging to minorities and conclusions contained therein,

1. *Reaffirms* the obligation of States to ensure that persons belonging to national or ethnic, religious and linguistic minorities may exercise fully and effectively all human rights and fundamental freedoms without any discrimination and in full equality before the law, as proclaimed in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

2. *Urges* all States to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities, as set out in the Declaration, and, while applying a gender perspective, to take, as appropriate, all the necessary constitutional, legislative, administrative and other measures to promote and give effect to the Declaration, including the provision of equal access to education, and facilitate their full participation in economic progress and development;

3. *Urges* States to pay specific attention to the negative impact of racism, racial discrimination, xenophobia and related intolerance on the situation of persons belonging to national or ethnic, religious and linguistic minorities, and draws attention to the relevant provisions of the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1), including the provisions on forms of multiple discrimination;

4. *Calls upon* States to give special attention to the promotion and protection of the human rights of children belonging to minorities, taking into account that girls and boys may face different types of risks;

5. *Also calls upon* States to take all appropriate measures to protect the cultural and religious sites of national or ethnic, religious and linguistic minorities;

6. *Requests* the High Commissioner to appoint an independent expert on minority issues for a period of two years, with the mandate:

(*a*) To promote the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, including through consultations with Governments, taking into account existing international standards and national legislation concerning minorities;

(*b*) To identify best practices and possibilities for technical cooperation by the Office of the United Nations High Commissioner for Human Rights at the request of Governments;

(*c*) To apply a gender perspective in his or her work;

(*d*) To cooperate closely, while avoiding duplication, with existing relevant United Nations bodies, mandates, mechanisms as well as regional organizations;

(*e*) To take into account the views of non-governmental organizations on matters pertaining to his or her mandate;

7. *Requests* the independent expert to submit annual reports on his/her activities to the Commission, including recommendations for effective strategies for better implementation of the rights of persons belonging to minorities;

8. *Requests* the Secretary-General to provide all the necessary resources, from within existing budgetary resources, for the effective fulfilment of the mandate of the independent expert;

9. *Commends* the role of the Working Group on Minorities of the Sub-Commission as an important forum for dialogue with non-governmental organizations and for examining solutions to problems involving minorities, and decides, in the light of the present resolution, to amend the mandate of the Working Group with a view to its holding one session of three consecutive working days annually during the time of the annual session of the Sub-Commission, focusing its work on interactive dialogue with relevant non-governmental organizations and on conceptual support of, and dialogue with, the independent expert, who shall participate as an observer;

10. *Invites* all States, specialized agencies, non-governmental organizations and scholars to continue to participate actively in the work of the Working Group;

11. *Invites* the human rights treaty monitoring bodies when considering reports submitted by States parties, as well as special procedures of the Commission and relevant United Nations agencies and programmes, to continue to give attention, within their respective mandates, to situations and rights of persons belonging to national or ethnic, religious and linguistic minorities;

12. *Invites* the High Commissioner to continue efforts to improve coordination and cooperation among United Nations agencies and programmes active in the field of the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, inter alia in the framework of the Executive Committee on Peace and Security, the United Nations Development Group, the Executive Committee on Economic and Social Affairs and the Executive Committee on Humanitarian Affairs, in particular with respect to the internationally agreed development goals, including those contained in the United Nations Millennium Declaration, and to engage in a dialogue with concerned Governments with a view to strengthening its technical cooperation programme in this regard;

13. *Requests* the High Commissioner to strengthen the technical cooperation programme of her office regarding minorities and to seek voluntary contributions towards participation of representatives of non-governmental organizations and persons belonging to minorities in the work of the Working Group;

14. *Requests* the Secretary-General to review the mechanisms' performance and effectiveness after two years and submit a report thereon, as well as on the details of the mechanisms, to the Commission at its sixty-third session;

15. *Decides* to continue its consideration of this question at its sixty-second session under the same agenda item;

16. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 24.]

60th meeting
21 April 2005
[Adopted without a vote. See chap. XIV.]

2005/80. Protection of human rights and fundamental freedoms while countering terrorism

The Commission on Human Rights,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the fundamental importance, including in response to terrorism and the fear of terrorism, of respecting all human rights and fundamental freedoms and the rule of law, *Recalling* that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

Acknowledging the important contribution of measures at all levels against terrorism, consistent with international law, in particular international human rights law and refugee and humanitarian law, for the functioning of democratic institutions, the maintenance of peace and security and thereby to the full enjoyment of human rights, as well as the need to continue this fight, including through international cooperation and the strengthening of the role of the United Nations in this respect,

Deeply deploring the occurrence of violations of human rights and fundamental freedoms in the context of the fight against terrorism,

Recognizing that the respect for human rights, democracy and the rule of law are interrelated and mutually reinforcing,

Recognizing that all States must respect the non-refoulement obligations under international refugee and human rights law, while at the same time, pay full respect to exclusion provisions,

Recalling its resolution 2004/87 of 21 April 2004 and taking note of General Assembly resolution 59/191 of 20 December 2004,

Welcoming the various initiatives to strengthen the promotion and protection of human rights in the context of counter-terrorism adopted by the United Nations and regional intergovernmental bodies, as well as by States,

Noting the declarations, statements and recommendations by a number of human rights treaty monitoring bodies and special procedures on the question of the compatibility of counter-terrorism measures with human rights obligations, as well as the final report of the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights on terrorism and human rights (E/CN.4/Sub.2/2004/40),

Reaffirming that under the terms of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/23, sect. I, para. 17), acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity and security of States and destabilizing legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism,

Taking note of General Assembly resolution 59/195 of 20 December 2004 and recalling Commission resolution 2004/44 of 19 April 2004 on human rights and terrorism,

Recalling the declaration on the issue of combating terrorism contained in the annex to Security Council resolution 1456 (2003) of 20 January 2003, in particular the statement that States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law, *Reaffirming* its unequivocal condemnation of all acts, methods and practices of terrorism, in all their forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renewing its commitment to strengthen international cooperation to prevent and combat terrorism,

Stressing that everyone is entitled to all the rights and freedoms recognized in the Universal Declaration of Human Rights without distinction of any kind, including on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

1. *Reaffirms* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

2. *Deeply deplores* the suffering caused by terrorism to the victims and their families and expresses its profound solidarity with them;

3. *Recalls* that, in accordance with article 4 of the International Covenant on Civil and Political Rights, certain rights are recognized as non-derogable in any circumstances and that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, and underlining the exceptional and temporary nature of any such derogations (see, for example, general comment No. 29 (2001) on article 4 of the Covenant on derogations during a state of emergency adopted by the Human Rights Committee);

4. *Calls upon* States to raise awareness of the importance of these obligations among national authorities involved in combating terrorism;

5. *Urges* States to review, with full respect for the fundamental principle of non-refoulement and other legal safeguards, the validity of a refugee status decision in an individual case if credible and relevant evidence comes to light that indicates that the person in question has committed any criminal acts, including terrorist acts, falling under the exclusion clauses under international refugee law;

6. *Reaffirms* that it is imperative that all States work to uphold and protect the dignity of individuals and their fundamental freedoms, as well as democratic practices and the rule of law, while countering terrorism, as stated in the report of the Secretary-General (A/59/404) submitted pursuant to General Assembly resolution 58/187 of 22 December 2003;

7. *Takes note with appreciation* of the study of the United Nations High Commissioner for Human Rights (A/59/428) submitted pursuant to General Assembly resolution 58/187;

8. *Also takes note with appreciation* of the report of the independent expert to assist the High Commissioner in examining the question of the protection of human rights and fundamental freedoms while countering terrorism (see E/CN.4/2005/103);

9. *Further takes note with appreciation* of the report of the High Commissioner on the protection of human rights and fundamental freedoms while countering terrorism (E/CN.4/2005/100), submitted pursuant to Commission resolution 2004/87 and General Assembly resolution 59/191;

10. *Encourages* States to make available to relevant national authorities the "Digest of Jurisprudence of the United Nations and Regional Organizations on the Protection of Human Rights while Countering Terrorism" and to take into account its content, and requests the High Commissioner to update and publish it periodically;

11. *Welcomes* the ongoing dialogue established in the context of the fight against terrorism between the Security Council and its Counter-Terrorism Committee and the relevant bodies for the promotion and protection of human rights, and encourages the Council and its Committee to strengthen the links and to continue to develop the cooperation with relevant human rights bodies, in particular with the Office of the High Commissioner, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Council resolutions relating to terrorism;

12. *Encourages* States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and encourages them to consider the recommendations of the special procedures and mechanisms of the Commission and the relevant comments and views of treaty bodies;

13. *Requests* the High Commissioner for Human Rights, making use of existing mechanisms, to continue:

(*a*) To examine the question of the protection of human rights and fundamental freedoms while countering terrorism, taking into account reliable information from all sources;

(*b*) To make general recommendations concerning the obligation of States to promote and protect human rights and fundamental freedoms while taking actions to counter terrorism;

(*c*) To provide assistance and advice to States, upon their request, on the protection of human rights and fundamental freedoms while countering terrorism, as well as to relevant United Nations bodies;

14. *Decides* to appoint, for a period of three years, a special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, with the mandate:

(*a*) To make concrete recommendations on the promotion and protection of human rights and fundamental freedoms while countering terrorism, including, at the request of States, for the provision of advisory services or technical assistance on such matters;

(*b*) To gather, request, receive and exchange information and communications from and with all relevant sources, including Governments, the individuals concerned, their families, their representatives and their organizations, including through country visits, with the consent of the State concerned, on alleged violations of human rights and fundamental freedoms while countering terrorism, with special attention to areas not covered by existing mandate holders;

(*c*) To identify, exchange and promote best practices on measures to counter terrorism that respect human rights and fundamental freedoms;

(*d*) To work in close coordination with other special rapporteurs, special representatives, working groups and independent experts of the Commission, the Sub-Commission and other relevant United Nations bodies;

(*e*) To develop a regular dialogue and discuss possible areas of cooperation with all relevant actors, including Governments, relevant United Nations bodies, specialized agencies and programmes, in particular with the Counter-Terrorism Committee of the Security Council, the Office of the United Nations High Commissioner for Human Rights, the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime, human rights mandate holders and treaty bodies, the Sub-Commission on the Promotion and Protection of Human Rights, as well as non-governmental organizations and other regional or subregional international institutions, fully respecting the respective mandates of the above-mentioned bodies and with a view to avoiding duplication of effort;

(*f*) To report regularly to the Commission and to the General Assembly;

15. *Requests* all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, including by reacting promptly to the Special Rapporteur's urgent appeals and providing the information requested;

16. *Requests* the High Commissioner to assist the Commission's various special procedures to enhance coordination and avoid duplication of efforts;

17. *Requests also* the High Commissioner to report regularly on the implementation of the present resolution to the Commission and to the General Assembly;

18. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 25.]

60th meeting
21 April 2005
[Adopted without a vote. See chap. XVII.]

2005/81. Impunity

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions, of 12 August 1949, and the Additional Protocols thereto of 8 June 1977, and other relevant human rights and international humanitarian law instruments, including the Vienna Declaration and Programme of Action, in particular paragraphs 60 and 91 of section II,

Recalling its resolution 2004/72 of 21 April 2004,

Reaffirming the duty of all States to put an end to impunity and to prosecute or extradite, in accordance with their obligations under international law, those responsible for all violations of human rights and international humanitarian law that constitute crimes, including genocide, crimes against humanity and war crimes, in order to bring them to justice, promote accountability, respect for international law and justice for the victims, deter the commission of such crimes and fulfil the responsibility of States to protect all persons from such crimes,

Convinced that impunity for violations of human rights and international humanitarian law that constitute crimes encourages such violations and is a fundamental obstacle to the observance and full implementation without discrimination of any kind of human rights and international humanitarian law,

Convinced also that exposing the truth regarding violations of human rights and international humanitarian law that constitute crimes, holding the perpetrators, including their accomplices, accountable, obtaining justice and an effective remedy for, and protecting, their victims, as well as preserving historical records of such violations and restoring the dignity of victims through public acknowledgement and commemoration of their suffering are integral to the promotion and implementation of human rights and international humanitarian law and to the prevention of future violations, as well as a key factor in ensuring a fair and equitable justice system and, ultimately, in promoting a just reconciliation and stability within all societies, including conflict and post-conflict societies and as relevant in the context of transitional processes,

Welcoming the appointment by the Secretary-General of a Special Adviser on the Prevention of Genocide as part of his five-point plan to prevent genocide, including action to prevent armed conflict, for effective measures to protect civilians, judicial steps to fight impunity, and swift and decisive action to prevent or stop genocide,

Acknowledging the importance of the work of the International Criminal Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda in combating impunity,

Recognizing the important contribution of the International Criminal Court to ending impunity, and noting the first referrals by States and the Security Council of situations to the Court and the ongoing investigations by the Prosecutor,

Recognizing also, as measures to combat impunity, the establishment of special, regional and national tribunals and judicial proceedings, often with international support, which are bringing to justice the perpetrators of violations of human rights and international humanitarian law that constitute crimes,

Welcoming cooperation between international criminal tribunals, including sharing lessons learned and devising effective approaches to meet challenges faced, to advance the common goal of strengthening the international criminal justice system,

1. *Emphasizes* the importance of combating impunity to the prevention of violations of human rights and international humanitarian law and urges States to end impunity for violations that constitute crimes by bringing the perpetrators, including accomplices, to justice in accordance with international law, in particular standards of justice, fairness and due process of law;

2. *Recognizes* that States must prosecute or extradite perpetrators, including accomplices, of international crimes such as genocide, crimes against humanity, war crimes and torture in accordance with their international obligations in order to bring them to justice, and urges all States to take effective measures to implement these obligations;

3. *Also recognizes* that amnesties should not be granted to those who commit violations of human rights and international humanitarian law that constitute crimes, urges States to take action in accordance with their obligations under international law and welcomes the lifting, waiving or nullification of amnesties and other immunities, and recognizes as well the Secretary-General's conclusion that United Nations-endorsed peace agreements can never promise amnesties for genocide, crimes against humanity, war crimes, or gross violations of human rights;

4. *Acknowledges* that under the Rome Statute of the International Criminal Court (A/CONF.183/9) genocide, crimes against humanity and war crimes are not subject to any statutes of limitations and prosecutions of persons accused of these crimes shall not be subject to any immunity, and urges States, in accordance with their obligations under applicable international law, to remove remaining statutes of limitations on such crimes and to ensure, if provided for by their obligations under international law, that official immunities *rationae materiae* do not encompass them;

5. *Reaffirms* that States should not grant asylum to any person with respect to whom there are serious grounds for considering that he or she has committed genocide, crimes against humanity, or war crimes;

6. *Urges* all States to ensure that all military commanders and other superiors are aware of the circumstances in which they may be criminally responsible under international law for genocide, crimes against humanity and war crimes, including, under certain circumstances, for these crimes when committed by subordinates under their effective authority and control, and to ensure that all relevant personnel are informed of the limitations that international law places on the defence of superior orders;

7. *Urges* States to bring to justice those responsible for gender-related crimes and crimes of sexual violence, including those that constitute, in defined circumstances, genocide, crimes against humanity or war crimes;

8. *Also urges* States to assist each other, in accordance with their international obligations and domestic law, in detecting, arresting and bringing to justice persons, including accomplices, suspected of having committed international crimes, including genocide, crimes against humanity and war crimes;

9. *Acknowledges* the historic significance of the entry into force of the Rome Statute of the International Criminal Court on 1 July 2002, recognizes that to date 98 States have ratified or acceded to the Rome Statute and calls upon all States that have not yet done so to consider ratifying or acceding to it;

10. *Recognizes* the fundamental importance of the principle of complementarity in the Rome Statute, and stresses the importance of the implementation by States parties of their obligations under the Statute;

11. *Calls upon* States to continue to support the work of the International Criminal Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda, and to consider supporting other initiatives to establish judicial mechanisms, as well as truth and reconciliation commissions and other commissions of inquiry that can contribute to ending impunity, in cooperation with the United Nations, in accordance with international standards of justice, fairness and due process of law, including at the international, regional and national levels;

12. *Urges* States to provide the victims of violations of human rights and international humanitarian law that constitute crimes with a fair, equitable, independent and impartial judicial process through which these violations can be investigated and made public in accordance with international standards of justice, fairness and due process of law, and to encourage victims to participate in judicial as well as truth and reconciliation processes, including by taking appropriate measures to ensure the protection of, and support and assistance to, victims as well as witnesses, such as contact points and child-and gender-sensitive procedures, paying special attention to crimes of sexual violence;

13. *Welcomes* in this regard the establishment in some States of judicial proceedings and commissions of truth and reconciliation and other commissions of inquiry, including international mechanisms and those with international participation, to address violations of human rights and international humanitarian law, welcomes the publication in those States of the reports of such investigations and commissions, urges all those States to make their reports accessible to the public and to implement, and monitor implementation of, their recommendations, and encourages other States where such violations have occurred in the past, including conflict and post-conflict societies and as relevant in the context of transitional processes, to establish appropriate processes to address them, consistent with international standards of justice, fairness and due process of law;

14. *Emphasizes* that the work of truth and reconciliation commissions and other commissions of inquiry can be complementary to the essential role of judicial mechanisms in protecting human rights and combating impunity;

15. *Calls upon* all States to ensure that criminal proceedings are conducted in accordance with the right to a fair and public hearing by a competent, independent, impartial and duly constituted tribunal in accordance with applicable international law, and to ensure that penalties are appropriate and proportionate to the gravity of the crime committed;

16. *Recognizes* that policies to combat impunity that are based on broad consultation can contribute significantly to ensuring public accountability and hence in securing lasting justice, as well as the important role of civil society and free and independent media in

combating impunity and exposing the truth regarding violations of human rights and international humanitarian law, and therefore encourages States to involve, as appropriate, all those concerned, including civil society, victims, human rights defenders and persons belonging to minorities and vulnerable groups, in all efforts to combat impunity, including judicial processes and the design of truth and reconciliation commissions and other commissions of inquiry, the selection of commissioners and the drafting of relevant legislation, with efforts to ensure that men and women participate on an equal basis;

17. *Also recognizes* the need to undertake a range of measures as part of a comprehensive approach towards combating impunity, urges States to consider institutional and legislative reform as necessary to ensure conformity with their international obligations, in particular to promote and protect human rights, as an enduring foundation for a lasting justice, democracy, the rule of law and the protection of human rights, and encourages States in this regard to consider establishing or strengthening as appropriate institutions of civilian oversight and civil complaint procedures, such as the office of the ombudsman or public advocate and independent national institutions for the promotion and protection of human rights in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) annexed to General Assembly resolution 48/134 of 20 December 1993;

18. *Encourages* States to strengthen training of police, investigative, prosecutorial and judicial personnel in human rights and international humanitarian law and to take appropriate measures that are in conformity with international law, in particular standards of justice, fairness and due process of law, to ensure that individuals who are personally responsible for gross violations of human rights do not remain in positions of public authority, as a guarantee of non-recurrence and to prevent future violations;

19. *Takes note with appreciation* of the expert workshops on impunity held in New York on 18 October and in Geneva on 18 and 19 November 2004, organized by the Office of the United Nations High Commissioner for Human Rights to contribute cross-regional perspectives to the work of the independent expert appointed by the Secretary-General at the request of the Commission in resolution 2004/72 to update the Set of Principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/Sub.2/1997/20/Rev.1, annex II);

20. *Takes note with appreciation* of the report of the independent expert and the updated Set of Principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/2005/102 and Add.1) as a guideline to assist States in developing effective measures for combating impunity;

21. *Recalls* that the principles contained in the Set of Principles have already been applied at the regional and national levels, and encourages States, intergovernmental organizations and non-governmental organizations to consider the recommendations and best practices identified in the independent study on impunity (E/CN.4/2004/88) as well as the updated Set of Principles, as appropriate, in developing and implementing effective measures to combat impunity, including efforts to strengthen domestic capacity such as legislative and institutional reform, and in the design of judicial mechanisms and truth and reconciliation commissions and other commissions of inquiry, and to bring them to the attention of all relevant institutions and personnel;

22. *Requests* the United Nations High Commissioner for Human Rights to ensure the wide dissemination of the updated Set of Principles, to make them available in an accessible and user-friendly format, including in the United Nations publication *Human Rights: A Compilation of International Instruments*, to take them into account in relevant United Nations activities, especially in the framework of United Nations missions, field presences, as well as human rights, institution-building and capacity-building activities, in cooperation with other parts of the United Nations system, States and other relevant actors, and to continue to support judicial mechanisms and commissions of inquiry and to provide, upon request, technical and legal assistance in developing national legislation and institutions to combat impunity in accordance with international standards of justice, fairness and due process of law;

23. *Invites* the special rapporteurs and other mechanisms of the Commission to continue to give due consideration to the issue of impunity and to the updated Set of Principles in the discharge of their mandates;

24. *Requests* the Secretary-General again to invite States and intergovernmental and non-governmental organizations to provide information, including best practices, on any legislative, administrative or other steps they have taken to combat impunity, including any ways in which the updated Set of Principles has been applied, and to provide information on remedies available to victims;

25. *Also requests* the Secretary-General to report to the Commission at its sixty-second session on the latest developments in international law and practice relevant to combating impunity, including international jurisprudence and State practice, and the work of the Office of the High Commissioner and other parts of the United Nations system, taking into account the updated Set of Principles and the independent study, as well as comments received pursuant to the present resolution;

26. *Decides* to continue its consideration of this matter at its sixty-second session under the same agenda item.

60th meeting
21 April 2005
[Adopted without a vote. See chap. XVII.]

2005/82. Situation of human rights in the Sudan

The Commission on Human Rights,

Recalling its decision 2004/128 of 23 April 2004,

Noting the relevant communiqué of the African Union Peace and Security Council, namely PSC/AHG/Comm.(XXIII), adopted by the Heads of State and Government at Libreville on 10 January 2005 and communiqués PSC/MIN/Comm.(XII) of 4 July 2004, PSC/PR/Comm.(XIII) of 27 July 2004, PSC/PR/Comm.(XVI) of 17 September 2004 and PSC/PR/Comm.(XVII) of 20 October 2004, *Noting also* Security Council resolutions 1556 (2004) of 30 July 2004, 1590 (2005) of 24 March 2005, 1591 (2005) of 29 March 2005 and 1593 (2005) of 31 March 2005,

Taking note of the findings of the International Commission of Inquiry on Darfur on the violation of international humanitarian law and human rights in Darfur as well as the report of the National Commission of Inquiry,

Taking note also of the reports of the independent expert on the situation of human rights in the Sudan (E/CN.4/2005/11), the former Special Rapporteur on extrajudicial, summary and arbitrary executions on her mission to the Sudan (E/CN.4/2005/7/Add.2), the Special Rapporteur on violence against women, its causes and consequences, on her mission to the Darfur region of the Sudan (E/CN.4/2005/72/Add.5), and the responses of the Government of the Sudan to these reports,

Recognizing the primary responsibility of the Government of the Sudan to protect and promote human rights within its territory, and its obligation to enhance the applicability of international humanitarian law,

Taking note of the report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan (E/CN.4/2005/3),

Welcoming the conclusion of the Comprehensive Peace Agreement in Nairobi on 9 January 2005 between the Government of the Sudan and the Sudan People's Liberation Army/Movement, which is a critical step towards the development of a peaceful and prosperous Sudan, provides a framework for settling the crisis in Darfur and greatly contributes to the promotion and protection of human rights in the Sudan, and calling on the parties to the Agreement to work together to resolve the question of Darfur,

Expressing its deep concern at the situation of human rights in Darfur, in particular attacks against civilians, gender-based violence and the dire consequences of the prolonged conflict for the civilian population in Darfur, in particular the increase in the number of refugees and internally displaced persons,

1. *Welcomes*:

(*a*) The full involvement of the Commission of the African Union in the peaceful resolution to the conflict in Darfur, and calls upon the African Union and its member States to continue their pivotal role in ensuring a successful conclusion to the peace talks being conducted in Abuja under the auspices of the African Union;

(*b*) The crucial role played by the African Union and its various mechanisms in helping to reach a peaceful settlement to the conflict in Darfur, and in this regard appreciates the leadership of President of Nigeria Mr. Olusegun Obasanjo in hosting and chairing the Abuja peace talks and expresses its confidence that the African Heads of State will continue their support for the peace process in Darfur;

(*c*) The assistance extended by the international community to the African Union and calls on the donor community to further provide logistical and financial support to the African Union Mission in Darfur to enable it to carry out its mandated functions effectively with a view to re-establishing peace and security in the region;

(*d*) The efforts of the Government of the Sudan to combat the abduction of persons, in particular the work of the Committee for the Eradication of Abduction of Women and Children;

2. *Condemns*:

(*a*) The continued, widespread and systematic violations of human rights and international humanitarian law as reflected in the findings of the International Commission of Inquiry on Darfur;

(*b*) The violence against civilians and sexual violence against women and girls, destruction of villages, widespread displacement and other violations in Darfur and urges all parties to take necessary steps to prevent further violations;

(*c*) The prevailing situation in the Darfur region of the Sudan, in particular the humanitarian crisis and the continued reported violations of human rights, including attacks against civilians committed by all parties, particularly the Janjaweed and other armed militias, and reiterates the need to control, disarm and disband these militias and bring to justice all those responsible for human rights violations in Darfur;

(*d*) Violations of the Ceasefire Agreement concluded in N'Djamena on 8 April 2004 and the Abuja Protocols on Improvement of the Humanitarian Situation and Enhancement of the Security Situation of 9 November 2004 by all parties to the conflict in Darfur and the impact this has had on humanitarian efforts;

(*e*) Violations of human rights anywhere in the Sudan;

3. *Calls upon* all parties to the conflict:

(*a*) To resume immediately the Abuja talks with a view to arriving at a lasting and durable negotiated settlement;

(*b*) To respect fully the N'Djamena Ceasefire Agreement and to ensure that all armed groups under their control comply with it;

(*c*) To observe the humanitarian ceasefire and grant immediate, safe and unhindered humanitarian access to Darfur and elsewhere in the Sudan;

(*d*) To cease all acts of violence immediately, and protect women and girls from sexual and other forms of violence;

(*e*) To respect the rights of refugees and internally displaced persons and their right of voluntary return in safety and dignity;

(*f*) To cooperate fully in the implementation of Security Council resolutions 1556 (2004), 1590 (2005), 1591 (2005) and 1593 (2005);

(*g*) To cooperate fully with the relevant bodies and mechanisms of the African Union and the United Nations, especially those competent in the field of human rights, and with the humanitarian aid organizations;

(*h*) To grant the International Committee of the Red Cross access to those detained in relation to the situation in Darfur;

(*i*) To prevent the recruitment of children as soldiers and combatants, consistent with the African Charter on the Rights and Welfare of the Child, the Convention on the Rights of the Child and the Optional Protocol thereto on the involvement of children in armed conflict;

(*j*) To refrain without delay from the use of landmines;

(*k*) To respect their obligations under the Abuja Protocols of 9 November 2004;

(*l*) To stop immediately the abduction and murder of relief workers by the armed groups;

4. *Calls upon* the Government of the Sudan:

(*a*) To continue its efforts aimed at finding a durable and peaceful solution to the problem in Darfur;

(*b*) To stop and investigate violations of human rights and to bring the perpetrators to justice and end impunity for crimes committed in Darfur in light of the recommendations contained in the report of the International Commission of Inquiry on Darfur and the report of the National Commission of Inquiry;

(*c*) To disarm the Janjaweed militias and stop supporting them, in conformity with the relevant Security Council resolutions;

(*d*) To promote the respect for human rights and international humanitarian law throughout the country, and protect the human rights of all persons, in particular those of internally displaced persons and refugees;

(*e*) To improve security in and around the internally displaced persons' camps;

(*f*) To exert maximum efforts for promoting the peaceful social coexistence between different tribes in Darfur;

(*g*) To strengthen and enhance access to the courts for all victims of human rights violations and to ensure their protection, and grant them reparation and compensation;

(*h*) To enhance and strengthen the independence and impartiality of the judiciary by training judges, prosecutors, lawyers and police with a view to protecting human rights and ensure rule of law;

(*i*) To consider creating, through a broad consultative process, a truth and reconciliation commission once peace is established in Darfur as a complementary measure to enhance peaceful social coexistence;

(*j*) To cooperate fully in the implementation of Security Council resolutions 1556 (2004), 1590 (2005), 1591 (2005) and 1593 (2005);

5. *Calls upon* the international community:

(*a*) To expand its support for the efforts and activities of the African Union aimed at bringing about peace in the Sudan;

(*b*) To continue providing relief assistance to the affected population in Darfur, with a view to complementing the efforts of the Government of the Sudan in that regard;

(*c*) To provide additional logistical and financial support to the African Union mission in Darfur to enable it to carry out its mandated functions effectively;

6. *Requests* the United Nations High Commissioner for Human Rights to increase and speed up the deployment of human rights monitors in Darfur to complement the African Union Mission in Sudan;

7. *Also requests* the High Commissioner to extend technical assistance and advisory services to the Government of the Sudan with a view to enhancing the national capacity in the field of human rights;

8. *Decides* to establish the mandate of a special rapporteur on the situation of human rights in the Sudan for one year and requests the Special Rapporteur to monitor the situation of human rights in the Sudan and to submit an interim report to the General Assembly at its sixtieth session and to report to the Commission at its sixty-second session;

9. *Calls upon* the Secretary-General to provide the Special Rapporteur with all necessary assistance to enable him or her to discharge his or her mandate fully;

10. *Decides* to consider this question at its sixty-second session;

11. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 26.]

60th meeting
21 April 2005
[Adopted without a vote. See chap. XIX.]

2005/83. Assistance to Somalia in the field of human rights

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and other relevant human rights instruments,

Recalling its previous resolutions, including resolution 2004/80 of 21 April 2004, and bearing in mind the relevant statements by the President of the Security Council, in particular the statements of 26 October 2004 (S/PRST/2004/38), of 19 November 2004 (S/PRST/2004/43), and of 7 March 2005 (S/PRST/2005/11), all the relevant Security Council resolutions, in particular Council resolutions 1587 (2005) of 15 March 2005 and 1558 (2004) of 17 August 2004, including resolution 1265 (1999) of 17 September 1999 on the protection of civilians in armed conflict, 1539 (2004) of 22 April 2004 on the use of children in armed conflicts and 1325 (2000) of 31 October 2000, on women, peace and security, the reports of the Secretary-General on the situation in Somalia, particularly his latest report (S/2005/89), and his reports on children and armed conflict (A/59/695-S/2005/72), on the protection of civilians in armed conflict (S/2004/431), on women, peace and security (S/2004/814), on small arms (S/2005/69) and on protection for humanitarian assistance to refugees and others in conflict situations (S/1998/883), the relevant General Assembly resolutions, particularly its resolutions 59/218 of 22 December 2004 and 59/211 of 20 December 2004, and the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex),

Recalling also the statement made by the President of the Security Council on the situation in Somalia on 7 March 2005, in which the Council reiterated its commitment to a comprehensive and lasting settlement of the situation in Somalia and its respect for the sovereignty, territorial integrity, political independence and unity of the country, consistent with the purposes and the principles of the Charter of the United Nations,

Reaffirming its serious concern at the continued flow of weapons and ammunition to and through Somalia and taking note of the ongoing work of the re-established Monitoring Group referred to in Security Council resolutions 1519 (2003) of 16 December 2003, 1558 (2004) and 1587 (2005), as well as its recommendations to continue monitoring the ongoing arms embargo violations on Somalia, the trend of which is reportedly rising,

Emphasizing that the efforts to combat terrorism in Somalia must respect all human rights and fundamental freedoms and the rule of law and are inseparable from the establishment of peace and governance in the country,

Underlining that the peace and the national reconciliation processes in Somalia must be completed through dialogue, involving all the Somali people, who are the ones to decide freely on their political, economic and social systems, and not by resorting to the use of force, *Noting with grave concern* that the security situation remains fragile throughout the country, and that attacks continue to be committed against humanitarian workers in Somalia and human rights defenders, the impact of which hinder a full response by aid agencies,

Noting also with grave concern that the worsening of the humanitarian situation is due to, inter alia, the prevailing drought and natural disasters, including the tsunami, and recognizing the massive challenges facing Somalia with respect to immediate assistance as well as reconstruction and development,

Calling upon the Somali parties to continue working towards a comprehensive security arrangement for Somalia by expeditiously implementing the engagements undertaken by the Somali parties, the Intergovernmental Authority on Development facilitators, the Prime Minister and the Representative of the Secretary-General and the signing of the Declaration of Principles for the Coordination and Monitoring Committee for Somalia on 9 February 2005, which refers in particular to the adherence to and respect for an effective and internationally verifiable comprehensive ceasefire arrangement,

Welcoming the newly established transitional federal institutions and the establishment of the joint Coordination and Monitoring Committee with the international community as important steps towards a durable and inclusive solution to the conflict in Somalia and as a result of the Somali National Reconciliation Conference, as well as through the continued commitment of the United Nations, the African Union, the League of Arab States, the European Union, the Organization of the Islamic Conference, the Movement of Non-Aligned Countries and the Intergovernmental Authority on Development Partners' Forum,

Considering that human rights are an integral part of the Declaration of Principles,

Welcoming the commitment of the African Union to support Somali-led efforts towards reconciliation and stability,

Commending the increasing efforts of the United Nations in improving the living conditions of the Somali people and in supporting the Transitional Federal Government to improve effectively the administration of justice by developing the rule of law, building its capacity to enforce the law and improving the application of human rights standards, as well as the meaningful work done by Somali civil society,

Reiterating that humanitarian, human rights and development assistance is of paramount importance to alleviate poverty and to promote a more peaceful, equitable and democratic society in Somalia,

1. *Welcomes*:

(*a*) The progress made over the last two years in the Somali national reconciliation process, in particular the election of the Transitional Federal Parliament, the Speaker of the Parliament and the President, the appointment of the Prime Minister and the formation of the Cabinet, as important steps towards lasting peace and reconciliation in Somalia;

(*b*) The establishment of the Coordination and Monitoring Committee with the international joint committee as a joint structure of the transitional federal institutions, co-chaired by the United Nations, as encouraged by the Security Council;

(*c*) The signing of the Declaration of Principles within the Committee and the efforts at launching a rapid assistance programme within the framework of peace-building activities, focused, inter alia, on disarmament, demobilization, rehabilitation and reintegration;

(*d*) The initial efforts made by transitional federal institutions towards their effective relocation in Somalia, whilst regretting the lack of general progress in this regard;

2. *Encourages* an incremental and prioritized approach of the United Nations system to addressing the continuing crisis and needs in Somalia, while maintaining long-term commitments to rehabilitation, recovery and development activities with a view to integrating human rights and a gender perspective into all peace-building, reconstruction and reconciliation processes;

3. *Invites*:

(*a*) All Somali parties, the Intergovernmental Authority on Development and African Union member States to support fully the new Transitional Federal Government to move the peace and reconciliation processes forward;

(*b*) The transitional federal institutions to rehabilitate basic social and economic services throughout the country and to support the extension of child protection coordination networks throughout the country;

4. *Expresses serious concern* that, as a result of poor crop production, the high mortality rate of livestock in the worst-affected areas of Somalia, economic stress, chronic food insecurity and poor health conditions, the Somali people, particularly internally displaced persons, continue to suffer from a high rate of malnutrition, which is associated with high mortality rates and, more generally, from a long-running humanitarian crisis;

5. *Expresses deep concern* at:

(*a*) The reported cases of rape, arbitrary and summary executions, torture and other cruel, inhuman or degrading treatment or punishment and violence, including domestic violence, in particular against women and children, and at the absence of an effective judicial system, essential to ensure the right to a fair trial in accordance with international standards;

(*b*) The prevalence of sexual violence and abuse, in particular among displaced children, children engaged in exploitative and hazardous labour, including those working and living on the streets, and imprisoned children, who should be separated from adult prisoners, and at discrimination against children belonging to minority clans, who are vulnerable to violence, including murder, poverty and lack of access to education;

(*c*) The practice of *asiwalid*, whereby parents send their disobedient children to be kept in prison until they order them to be released, which continues to prevail with all the negative human rights implications this entails;

(*d*) The continued and protracted flow of refugees and the displacement of an estimated 400,000 internally displaced persons in Somalia as a result, inter alia, of drought and intermittent clan conflicts;

6. *Calls upon* the Transitional Federal Government:

(*a*) To establish an independent national commission on human rights, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles);

(*b*) To support appropriate investigations throughout Somalia in order to combat impunity, to bring perpetrators to justice, and to establish an effective, efficient and non-gender-biased justice system, including the juvenile justice system;

(*c*) To integrate human rights standards into the institutions, when reconstructing the Somali executive, legislative and judicial branches, including by establishing a human rights ombudsman;

(*d*) To consider signing and ratifying promptly the Convention on the Elimination of All Forms of Discrimination against Women, and to enhance the activities of the newly established Ministry for Women and Family Affairs;

(*e*) To ensure the effective participation of women in the political process, particularly their access to public office, as stipulated by the Transitional Federal Charter;

(*f*) To ensure girls' enrolment in schools;

(*g*) To ratify the Convention on the Rights of the Child and to enhance the activities of the Government in the field of the protection of the rights of children, in particular children involved in armed conflict;

7. *Firmly condemns*:

(*a*) The serious violations of the commitment undertaken by the parties on 27 October 2002, which are still occurring, and those who obstruct the peace process and persist on the path of confrontation and conflict by committing, inter alia, acts of violence such as hostage-taking, abduction and murder, including of humanitarian relief workers and United Nations agency personnel;

(*b*) The ongoing widespread violations and abuse of human rights and humanitarian law against internally displaced persons, refugees, minorities, vulnerable groups, women and children, including the nearly universal practice of female genital mutilation, particularly the practice of infibulation, which remains a matter of serious concern;

(*c*) The forced or compulsory recruitment of children for use in armed conflict, the use of these children in armed conflict by militias, the practice of child labour, particularly domestic labour, and the involvement of children in exploitative and hazardous labour, and a juvenile justice system not in accordance with international standards;

8. *Calls upon*:

(*a*) All parties throughout Somalia to strengthen their commitment to the establishment and functioning of transitional federal institutions, aware of the fact that the peaceful coexistence of all parties and groups is also an important foundation for the respect of human rights, and to abide by and implement expeditiously the decisions adopted throughout the national reconciliation process;

(*b*) All States to commit themselves to the long-term objective of regional stability, inter alia by providing immediate political and diplomatic support to the Transitional Federal Government of Somalia and the work of the Coordination and Monitoring Committee;

(*c*) All relevant stakeholders to support the establishment of a stronger field presence of the Office of the United Nations High Commissioner for Human Rights in Somalia, particularly its activities of human rights advocacy and investigations of human rights violations, in order to develop a culture of human rights, as well as its effective participation in the United Nations Country Team by appointing a senior human rights adviser;

(*d*) The United Nations, non-governmental organizations and the Bretton Woods institutions to speed up the implementation of their projects, in particular in the fields of human rights, including rights of the child, women's rights and gender equality, health, with specific attention to the mentally disabled and to combating HIV/AIDS and other sexually transmitted diseases, demobilization, disarmament and rehabilitation of militia, the struggle against the proliferation of small arms, mine clearance and rehabilitation of basic infrastructures, and to specifically provide support for the voluntary return and reintegration of Somali refugees and the provision of urgent and extensive humanitarian assistance to, and protection for, those who have been internally displaced;

(*e*) The United Nations and its Member States to support Somali-led efforts, as well as those of the African Union, to improve the security situation in Somalia;

9. *Also calls upon*:

(*a*) All parties to stop all acts of violence, to abstain from engaging in hostilities and to prevent any act likely to increase tension and insecurity, particularly the forced or compulsory recruitment of children for use in armed conflict, and to pay serious attention to their protection, as set out in human rights and international humanitarian standards, in particular those pertaining to internal armed conflict, and to guarantee also to all persons involved in humanitarian action, including international media, their complete freedom of movement and safe and unhindered access to civilians in need of protection and humanitarian assistance throughout the country;

(*b*) All States and other actors to comply scrupulously with the arms embargo established by Security Council resolution 733 (1992) of 23 January 1992, and to continue to work closely with the mechanisms established to enforce the arms embargo pursuant to Security Council resolution 733 (1992);

(*c*) All States to prevent persons and entities from taking advantage of the situation in Somalia to finance, plan, facilitate, support or commit terrorist acts from the country, emphasizing that efforts to combat terrorism in Somalia are inseparable from the establishment of peace and governance in the country;

(*d*) All Member States to provide political support to the Somali national reconciliation process within the framework and under the aegis of the Coordination and Monitoring Committee;

(*e*) Individual donor countries, international organizations and non-governmental organizations to cooperate fully with the independent expert appointed by the Secretary-General on the situation of human rights in Somalia and to incorporate human rights principles and objectives in their humanitarian and development work in Somalia;

10. *Invites* Governments and organizations in a position to do so to respond positively to requests by the Secretary-General for assistance in the implementation of the present resolution;

11. *Requests*:

(*a*) The United Nations High Commissioner for Human Rights to provide for the translation of international human rights treaties and this resolution, accompanied by an appropriate background explanatory note, into the Somali language and for their dissemination to the greatest extent possible within the country;

(*b*) The transitional federal institutions to cooperate fully with all the mechanisms of the Commission, including by extending invitations to all special procedures, in particular to the Special Rapporteur on violence against women, its causes and consequences, and the Special Representative of the Secretary-General for children and armed conflict;

12. *Commends* the work carried out by the independent expert on the situation of human rights in Somalia and welcomes his report (E/CN.4/2005/117);

13. *Decides*:

(*a*) To extend the mandate of the independent expert for a further year and requests him to report to the Commission at its sixty-second session;

(*b*) To request the Secretary-General to continue to provide the independent expert with all necessary assistance in carrying out his mandate and to provide adequate resources, from within existing overall United Nations resources, to fund the activities of the independent expert and the High Commissioner in providing advisory services and technical assistance;

(*c*) To continue its consideration of this question as a matter of high priority at its sixty-second session under the same agenda item;

14. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 27.]

60th meeting
21 April 2005
[Adopted without a vote. See chap. XIX.]

2005/84. The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS)

The Commission on Human Rights,

Recalling its resolutions 2003/47 of 23 April 2003, 2001/51 of 24 April 2001 and 1999/49 of 27 April 1999, as well as the Declaration of Commitment on HIV/AIDS adopted by General Assembly resolution S-26/2 of 27 June 2001 at its twenty-sixth special session on HIV/AIDS, which affirms that the realization of human rights and fundamental freedoms for all is essential to reduce vulnerability to HIV/AIDS and that respect for the rights of people living with HIV/AIDS drives an effective response,

Noting with concern that, according to estimates and statistics of the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the World Health Organization, at the end of 2004 the number of people living with HIV was 39.4 million, including 4.9 million people newly infected with HIV in 2004, and the number of people who have died of AIDS since the beginning of the epidemic is more than 20 million, including the 3.1 million people who died of AIDS in 2004,

Noting also with concern that, according to UNAIDS and the World Health Organization, in the last two years, the number of people living with HIV has risen in every region, with the steepest increases occurring in East Asia, Eastern Europe and Central Asia,

Noting with particular concern that, also according to UNAIDS and the World Health Organization, women and girls are disproportionately affected by the epidemic in that they comprise an increasing proportion of the people infected, particularly in sub-Saharan Africa where women account for 57 per cent of those infected, with young women aged 15 to 24 being three times more likely to be infected than young men of the same age, and in Eastern Europe, Asia and Latin America, where the proportion of infected women continues to grow,

Noting also with particular concern that the situation of children under 15 made vulnerable or orphaned by HIV/AIDS is worsening, with an estimated 2.2 million children living with HIV at the end of 2004, including 640,000 children newly infected that year; that 510,000 children died of AIDS in 2004 and 500,000 children are in need of HIV/AIDS treatment; and that 12 million children have been orphaned in sub-Saharan Africa, with the number expected to rise to more than 18 million by 2010, *Noting with concern* that an estimated 95 per cent of all people infected with HIV live in the developing world, mostly in conditions of poverty, underdevelopment, conflict and inadequate measures for the prevention, care and treatment of HIV infection, and that marginalized groups in these societies are even more vulnerable to HIV infection and the impact of AIDS,

Also noting with concern the devastating impact of HIV/AIDS, including increased mortality and morbidity among men, women and children; higher health and social costs; and, in hardest-hit countries, devastation of human and social capital and development gains, including the reduction of poverty, resulting in a major threat to the achievement of the internationally agreed development goals, including those contained in the United Nations Millennium Declaration,

Taking note of the fact that in the context of the "3 by 5" initiative to treat 3 million people by 2005, the World Health Organization and UNAIDS have estimated that 700,000 people in developing countries were receiving antiretroviral treatment by the end of 2004, which represented 12 per cent of the 5.8 million people in need of such treatment,

Emphasizing, in view of the increasing challenges presented by HIV/AIDS, the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all so as to reduce vulnerability to HIV/AIDS, to prevent HIV/AIDS-related discrimination and stigma, and to reduce the impact of HIV/AIDS,

Concerned that lack of full enjoyment of human rights by persons suffering from economic, social or legal disadvantage heightens the vulnerability of such persons to the risk of HIV infection and to its impact, if infected,

Recalling the guidelines on HIV/AIDS and human rights as summarized (E/CN.4/1997/37, para. 12), including the summary of the *Revised Guideline 6: Access to prevention, treatment, care and support* (2002), which provide guidance to ensuring the respect, protection and fulfilment of human rights in the context of HIV/AIDS,

Taking note with interest of the reports by the United Nations special procedures that have devoted specific attention, in the context of their mandates, to the critical intersection between the protection of human rights and an effective response to the epidemic, among others, the Special Rapporteurs on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, on torture and other cruel, inhuman or degrading treatment or punishment, on the promotion and protection of the right to freedom of opinion and expression, on violence against women, its causes and consequences, and on the sale of children, child prostitution and child pornography,

Recalling general comment No. 3 (2003) on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child at its thirty-second session in January 2003,

Welcoming the fact that positive steps in implementing previous resolutions have been taken, including the enactment of legislation in some countries to promote human rights in the context of HIV/AIDS and to prohibit discrimination against persons infected or presumed to be infected and members of vulnerable groups, *Welcoming also* the significant role of UNAIDS in cooperation with relevant bodies of the United Nations system, in particular the Office of the United Nations High Commissioner for Human Rights, and of national and international non-governmental organizations, in particular organizations of people living with HIV/AIDS, in promoting and protecting human rights in the context of HIV/AIDS, including fighting discrimination against people living with HIV/AIDS, and in the full range of prevention, treatment and care activities,

Recalling that HIV-related stigma and discrimination are major obstacles to an effective HIV/AIDS response and that discrimination on the basis of HIV or AIDS status, actual or presumed, is prohibited by existing international human rights law, and that the term "or other status" in non-discrimination provisions in international human rights texts should be interpreted to cover health status, including HIV/AIDS,

Welcoming the report of the Secretary-General on the protection of human rights in the context of HIV and AIDS (E/CN.4/2005/79), which provides an overview of action taken by a number of Governments, specialized agencies and international and non-governmental organizations on the implementation of the guidelines on HIV/AIDS and human rights, as summarized (E/CN.4/1997/37, para. 12), and their dissemination, and which addresses issues of technical cooperation for the promotion and protection of human rights in the context of HIV/AIDS,

Also welcoming the appointment by the Secretary-General of Special Envoys on HIV/AIDS for Africa, Asia, the Caribbean and Eastern Europe,

1. *Invites* States, United Nations organs, programmes and specialized agencies and international and non-governmental organizations to continue to take all necessary steps to ensure the respect, protection and fulfilment of HIV/AIDS-related human rights, as contained in the guidelines on HIV/AIDS and human rights, as summarized (E/CN.4/1997/37, para. 12);

2. *Calls upon* all States to implement in full the Declaration of Commitment on HIV/AIDS adopted in 2001 by the General Assembly at its twenty-sixth special session on HIV/AIDS;

3. *Invites* States, United Nations bodies and international and non-governmental organizations, including the international donor community, to further contribute to international cooperation and assistance, with a view to assisting developing countries, particularly the least developed countries, in the context of the "Three Ones" key principles of UNAIDS and in the context of HIV-related human rights through, inter alia, advancing HIV/AIDS prevention and care programmes, including the provision of youth-friendly and gender-sensitive health programmes, facilitating equal access to HIV-related treatment, and sharing knowledge and achievements concerning HIV-related issues;

4. *Invites* States to develop, support and strengthen national mechanisms for protecting HIV-related human rights in consultation with relevant national bodies, including national human rights institutions and professional bodies, to monitor and enforce HIV-related human rights, to eliminate HIV-related stigma and discrimination, and to ensure that codes of professional conduct respect human rights and dignity in the context of HIV/AIDS, so that infected persons who reveal their HIV status, those presumed to be infected and other affected persons are protected from violence, stigmatization and discrimination;

5. *Urges* States to ensure that their laws, policies and practices, including workplace policies and practices, respect human rights in the context of HIV/AIDS and promote effective programmes for the prevention and treatment of HIV/AIDS and the prohibition of HIV-related discrimination, including through voluntary testing and counselling, education, media and awareness-raising campaigns, improved and equitable access to high-quality goods and health care, particularly to safe and effective medication, assistance to educate people infected with and affected by HIV/AIDS about their rights and to assist them in realizing their rights;

6. *Urges* all States to integrate sexual and reproductive health programmes and the promotion and protection of reproductive rights, as understood in previous international commitments, such as the Programme of Action adopted by the International Conference on Population and Development held in Cairo from 5 to 13 September 1994 (A/CONF.171/13/Rev.1, chap. I, resolution 1, annex) and the Beijing Declaration and Programme for Action adopted by the Fourth World Conference for Women held in Beijing from 4 to 15 September 1995 (A/CONF.177/20/Rev.1, chap. I, sect. A) and their follow-ups, as strong and robust components of their national strategies on HIV/AIDS, and stresses that women have the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence;

7. *Requests* States to further develop and, where necessary, establish coordinated, participatory, gender-sensitive, transparent and accountable national policies and programmes for HIV/AIDS response and to translate national policies to district level and local action, involving in all phases of development and implementation non-governmental and faith- and community-based organizations, including women's organizations and advocacy groups and representatives of people living with HIV/AIDS and vulnerable groups;

8. *Also requests* States to take all appropriate measures to protect the human rights of women and children in the context of HIV/AIDS, in particular to address gender inequality, violence against women and girls, harmful traditional practices, as well as the legal and social needs of children orphaned or made vulnerable by HIV/AIDS and the needs of their caregivers;

9. *Calls upon* States to ensure full and equal access for women and children to HIV prevention, information, voluntary counselling and testing, education and care, as well as to high-quality medication and treatment, including through the development of efficient national health systems with the necessary human resources, recognizing the need for youth-friendly services and the appropriate role and responsibility of parents, families, legal guardians and caregivers in this regard;

10. *Invites* the human rights treaty bodies, when considering reports submitted by States parties, to give particular attention to HIV-related rights and invites States to include appropriate HIV-related information in the reports they submit to the relevant treaty bodies;

11. *Invites* States when preparing their progress reports to the General Assembly on the implementation of the Declaration of Commitment on HIV/AIDS to include information on human rights in the context of HIV/AIDS;

12. *Requests* all special procedures and open-ended working groups of the Commission to continue to integrate the protection of HIV-related human rights within their respective mandates;

13. *Requests* the Secretary-General to invite Member States and the United Nations organs and programmes, as well as the specialized agencies, to integrate HIV-related human rights into their policies, programmes and activities, including those involving regional intergovernmental human rights and other bodies, and to involve non-governmental and faith- and community-based organizations and the private sector in all phases of development and implementation, to help ensure a system-wide approach, stressing the coordinating and catalytic role of UNAIDS;

14. *Also requests* the Secretary-General to solicit comments from Governments, United Nations organs, programmes and specialized agencies and international and non-governmental organizations on the steps they have taken to promote and implement, where applicable, programmes to address the urgent HIV-related human rights of women, children and vulnerable groups in the context of prevention, care and access to treatment as described in the guidelines on HIV/AIDS and human rights, as summarized (E/CN.4/1997/37, para. 12), and the present resolution, and to submit, in consultation with interested parties, a progress report to the Commission for consideration at its sixty-third session.

61st meeting
21 April 2005
[Adopted without a vote. See chap. XIV.]

2005/85. Technical cooperation and advisory services in the Democratic Republic of the Congo

The Commission on Human Rights,

Reaffirming that all States Members have an obligation to promote and protect human rights and fundamental freedoms,

Noting that the Democratic Republic of the Congo is a party to several international and regional human rights instruments and to several instruments pertaining to international humanitarian law,

Bearing in mind its previous relevant resolutions, the most recent of which is resolution 2004/84 of 21 April 2004, those of the General Assembly, the most recent of which is resolution 59/207 of 20 December 2004, and the Security Council resolutions on the subject, including resolutions 1592 (2005) of 30 March 2005 and 1325 (2000) of 31 October 2000,

Noting the communiqué of the Peace and Security Council of the African Union (PSC/AHG/Comm.(XXIII)) adopted by heads of State and Government of the African Union in Libreville on 10 January 2005, *Recalling* the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2003/3/Add.3), concerning the massacres that took place in the region of Kisangani on 14 May 2002 and thereafter, and referring in that connection to the statements made by the President of the Security Council, the most recent of which dates from 2 March 2005 (S/PRST/2005/10),

Taking note of the seventeenth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo (S/2005/167), particularly the parts of the report relating to human rights, and the report of the Group of Experts on the Democratic Republic of the Congo (S/2005/30),

Taking note also of the letter dated 9 February 2005 from the Secretary-General addressed to the President of the Security Council, regarding cases of sexual abuse committed by certain members of the United Nations Organization Mission in the Democratic Republic of the Congo (S/2005/79),

Concerned at reports of violations of human rights and international humanitarian law, including in the eastern part of the Democratic Republic of the Congo, and more particularly in North Kivu and South Kivu, northern Katanga and Ituri, as described, among others, in the above-mentioned reports,

1. *Welcomes*:

(*a*) The gradual establishment inside the country of the five institutions supporting the transition;

(*b*) The strengthening of the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo, including with regard to the human rights component, and the increase in its personnel in accordance with Security Council resolutions 1565 (2004) of 1 October 2004 and 1592 (2005) of 30 March 2005;

(*c*) The action of the Congolese Ministry of Human Rights to promote and protect human rights;

(*d*) The action taken by the field office of the Office of the United Nations High Commissioner for Human Rights in the Democratic Republic of the Congo, and encourages the Government to continue to cooperate with the International Committee in Support of the Transition and the United Nations agencies in place, particularly the field office and the United Nations Organization Mission in the Democratic Republic of the Congo;

(*e*) The joint initiative of the Government of the Democratic Republic of the Congo, United Nations agencies and non-governmental organizations to combat sexual violence against women and children;

(*f*) The current process of reform of the judicial system by the Transitional Government with the support of the European Union;

(*g*) The oral report presented by the independent expert on the situation of human rights in the Democratic Republic of the Congo at the fifty-ninth session of the General Assembly, his visits to the Democratic Republic of the Congo from 22 August to 2 September 2004 and from 9 to 18 November 2004, and his report to the Commission at its sixty-first session (E/CN.4/2005/120), and thanks the independent expert for his work;

(*h*) The implementation of the national disarmament, demobilization and reintegration programme and the close cooperation with the United Nations Organization Mission in the Democratic Republic of the Congo, other United Nations bodies, humanitarian organizations and the World Bank with a view to continuing to ensure the rapid demobilization and reintegration of armed groups, and of child soldiers in particular;

(*i*) The Dar es Salaam Declaration adopted on 20 November 2004 at the first summit of heads of State of the International Conference on Peace, Security, Democracy and Development in the Great Lakes Region;

2. *Takes note* of:

(*a*) The signing in October 2004 by the Democratic Republic of the Congo and the Office of the Prosecutor of the International Criminal Court of an agreement on judicial cooperation and a provisional memorandum of understanding on the privileges and immunities of members of the International Criminal Court in the territory of the Democratic Republic of the Congo;

(*b*) The continued investigation of crimes presumed to have been committed in the territory of the Democratic Republic of the Congo since the entry into force, on 1 July 2002, of the Rome Statute of the International Criminal Court (A/CONF.183/9);

3. *Expresses its concern* at:

(*a*) The persistent reports of violations of human rights and international humanitarian law in the Democratic Republic of the Congo, particularly in North Kivu and South Kivu, northern Katanga and Ituri, as described in the above-mentioned reports;

(*b*) The attacks on human rights defenders in the Democratic Republic of the Congo, particularly in the eastern part of the country;

4. *Condemns*:

(*a*) The violations of human rights and international humanitarian law, particularly in Ituri, North Kivu and South Kivu, northern Katanga and other areas in the eastern part of the Democratic Republic of the Congo, including armed violence and reprisals against the civilian population and the recourse to sexual violence against women and children, which is being used as a weapon of war;

(*b*) The impunity enjoyed by those responsible for violations of human rights and international humanitarian law;

(*c*) The massacres that have been perpetrated, including those reported in Lukweti, Nyabiondo, Walikale, Bweremana and Kanyabayonga in North Kivu and in Kalehe, Bukavu, Kaniola and Uvira in South Kivu;

(*d*) The ambush and murder of members of the United Nations Organization Mission in the Democratic Republic of the Congo on 25 February 2005 in Kafé;

(*e*) The illegal exploitation of the natural resources of the Democratic Republic of the Congo, which is linked to the continuation of armed clashes, thereby putting the population groups in the areas concerned at great risk of a deterioration in their health and economic situation;

5. *Urges* all the parties, including non-signatories of the Global and All-Inclusive Agreement on the Transition in the Democratic Republic of the Congo, signed in Pretoria on 17 September 2002:

(*a*) To provide support for the transition and its institutions, in order to permit the restoration of political and economic stability and the progressive strengthening of State structures throughout the Democratic Republic of the Congo in accordance with their obligations under the Transitional Constitution, and for the smooth functioning of the electoral process;

(*b*) To allow free and secure access to all areas in order to permit and facilitate investigations of the presumed serious violations of human rights and international humanitarian law, so that the perpetrators are brought to justice, and to that end to cooperate fully with national and international human rights protection mechanisms in the interests of the investigations of the presumed violations of human rights and international humanitarian law in the Democratic Republic of the Congo;

(*c*) To ensure that the military officers whose names are mentioned in the report of the United Nations High Commissioner for Human Rights in connection with serious violations of international humanitarian law and human rights continue to be investigated, are suspended from duty until the investigations are completed and, if the conclusions of the investigations so warrant, are brought to justice;

(*d*) To protect human rights and to respect international humanitarian law, in particular by ensuring the safety, security and freedom of movement of all civilians, as well as free access for humanitarian personnel to all affected population groups throughout the Democratic Republic of the Congo;

(*e*) To guarantee the rights and welfare of persons displaced within the country, repatriates and groups of refugees;

(*f*) To respect and promote the full exercise of all human rights by women and to take special measures to protect women and children from all sexual and other forms of violence;

(*g*) To support the national disarmament, demobilization and reintegration programme and the disarmament and community reintegration programme in Ituri, and to put a stop to the recruitment and use of child soldiers in violation of international law and the African Charter on the Rights and Welfare of the Child;

6. *Requests* the Transitional Government to take specific measures:

(*a*) To achieve the objectives of the period of transition as laid down in the Global and All-Inclusive Agreement, in particular the holding of free and transparent elections at all levels, enabling the establishment of a democratic constitutional regime and the formation of a restructured and integrated national army and an integrated national police force that are provided with adequate financial resources and equipment with which to accomplish their tasks;

(*b*) To comply fully with its obligations under international human rights instruments, and accordingly to continue to cooperate with United Nations mechanisms for the protection of human rights and with the field office of the Office of the High Commissioner in the Democratic Republic of the Congo;

(*c*) To intensify its efforts to restore the rule of law throughout the Democratic Republic of the Congo, thus enabling the population to experience peace and progress once again;

(*d*) To pursue and accelerate reform of the judicial system;

(*e*) To put an end to impunity and ensure, as it is duty-bound to do, that those responsible for human rights violations and grave breaches of international humanitarian law are brought to justice in accordance with due process, and to that end requests the High Commissioner to ensure that consultations continue between the field office of the Office of the High Commissioner in the Democratic Republic of the Congo and the Secretary-General concerning ways to assist the Transitional Government of the Democratic Republic of the Congo in tackling the problem of impunity, and requests the High Commissioner to submit a report to the Commission at its sixty-second session on these consultations and on possible options for putting an end to the impunity of the perpetrators of crimes committed before 1 July 2002;

(*f*) To continue to cooperate fully with the International Criminal Court and the International Tribunal for Rwanda, by ensuring that they have all necessary means with which to accomplish their task;

(*g*) To reinstate the moratorium on capital punishment and persevere in its declared objective of progressively abolishing the death penalty;

(*h*) To respond to the specific needs of women and girls during and after the conflict and to ensure as soon as possible the full participation of women in every phase of the peace-making process, in particular peacekeeping, conflict management and the consolidation of peace;

(*i*) To continue with and to step up its efforts to put a stop to the recruitment of child soldiers;

(*j*) To continue with its programme for the disarmament, demobilization and reintegration of former combatants, taking into account the special needs of the women and children, especially girls, associated with these combatants;

7. *Requests* the international community:

(*a*) To continue to provide support for the transition and its institutions, in particular by providing financial and political support in the fields of reform of the security sector, the rule of law and the electoral process;

(*b*) To provide the financial resources and technical assistance needed by the Transitional Government and the United Nations Organization Mission in the Democratic Republic of the Congo to complete the process of disarmament, demobilization, repatriation and reintegration;

(*c*) To support the field office of the Office of the High Commissioner in the Democratic Republic of the Congo in order to enable it to implement its programmes fully;

(*d*) To facilitate the holding of the second meeting of the summit of the International Conference on Peace, Security, Democracy and Development in the Great Lakes Region, under the auspices of the United Nations and the African Union, to be attended by all the Governments of the region and all the other parties concerned, and, in this connection, to call on the latter to fulfil their commitments under the Dar es Salaam Declaration;

8. *Decides*:

(*a*) To extend the mandate of the independent expert for one year and to request the Secretary-General to provide all necessary assistance to enable the independent expert to fulfil his mandate;

(*b*) To request the independent expert to submit a progress report to the General Assembly at its sixtieth session, and to report to the Commission at its sixty-second session;

(*c*) To renew its request to the Secretary-General that he should provide advisory services to the Democratic Republic of the Congo in the field of human rights;

(*d*) To reconsider the matter at its sixty-second session under the same agenda item;

9. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 28.]

61st meeting
21 April 2005
[Adopted without a vote. See chap. XIX.]

B. Decisions

2005/101. Organization of work

At its 2nd meeting, on 14 March 2005, the Commission on Human Rights decided, without a vote, to invite the following persons to participate in its meetings:

(*a*) In connection with item 3: Mr. E.A. Addo, independent expert on the situation of human rights in the Sudan;

(*b*) In connection with item 5: Ms. S. Shameem, Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination;

(*c*) In connection with item 6: Mr. D. Diène, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;

(*d*) In connection with item 6: Mr. P.L. Kasanda, Chairperson-Rapporteur of the Working Group of Experts on People of African Descent;

(*e*) In connection with item 6: Mr. J. Martabit, Chairperson-Rapporteur of the Intergovernmental working group on the effective implementation of the Durban Declaration and Programme of Action;

(*f*) In connection with item 7: Mr. I. Salama, Chairperson-Rapporteur of the Working Group on the Right to Development;

(*g*) In connection with item 8: Mr. J. Dugard, Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967;

(*h*) In connection with item 9: Mr. A. Severin, Special Rapporteur to establish direct contacts with the Government and with the people of Belarus;

(*i*) In connection with item 9: Ms. C. Chanet, Personal Representative of the United Nations High Commissioner for Human Rights on the situation of human rights in Cuba;

(*j*) In connection with item 9: Mr. V. Muntarbhorn, Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea;

(*k*) In connection with item 9: Mr. P.S. Pinheiro, Special Rapporteur on the situation of human rights in Myanmar;

(*l*) In connection with item 9 (*b*): Ms. H. Warzazi, Chairperson-Rapporteur of the Working Group on Communications of the Sub-Commission on the Promotion and Protection of Human Rights; representatives of States in respect of which situations were being considered under item 9 (*b*);

(*m*) In connection with item 9 (*b*): Mr. L. Huseynov, independent expert on the human rights situation in Uzbekistan;

(*n*) In connection with item 10: Mr. M. Kothari, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context;

(*o*) In connection with item 10: Mr. O. Ibeanu, Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights;

(*p*) In connection with item 10: Mr. B.A. Nyamwaya Mudho, independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights;

(*q*) In connection with item 10: Mr. J. Ziegler, Special Rapporteur on the right to food;

(*r*) In connection with item 10: Mr. A. Sengupta, independent expert on the question of human rights and extreme poverty;

(*s*) In connection with item 10: Mr. V. Muñoz Villalobos, Special Rapporteur on the right to education;

(*t*) In connection with item 10: Mr. P. Hunt, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

(*u*) In connection with item 10: Ms. C. de Albuquerque, Chairperson-Rapporteur of the Open-ended working group of the Commission with a view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights;

(*v*) In connection with item 11: Mr. Alejandro Salinas, Chairperson-Rapporteur of the third consultative meeting on the "basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law";

(*w*) In connection with item 11 (*a*): Ms. L. Zerrougui, Chairperson-Rapporteur of the Working Group on Arbitrary Detention;

(*x*) In connection with item 11 (*a*): Mr. M. Nowak, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment;

(*y*) In connection with item 11 (*a*): Mr. I. Tosevski, Chairperson of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture;

(*z*) In connection with item 11 (*b*): Mr. P. Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions;

(*aa*) In connection with item 11 (*b*): Mr. S.J. Toope, Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances;

(*bb*) In connection with item 11 (*b*): Mr. B. Kessedjian, Chairperson-Rapporteur of the Intersessional open-ended working group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance;

(*cc*) In connection with item 11 (*c*): Mr. A. Ligabo, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;

(*dd*) In connection with item 11 (*d*): Mr. L. Despouy, Special Rapporteur on the independence of judges and lawyers;

(*ee*) In connection with item 11 (*e*): Ms. A. Jahangir, Special Rapporteur on freedom of religion or belief;

(*ff*) In connection with item 12: Ms. C.M. Gallardo Hernández, Chairperson of the Commission on the Status of Women;

(*gg*) In connection with item 12: Ms. S. Huda, Special Rapporteur on the human rights aspects of trafficking in persons, especially women and children;

(*hh*) In connection with item 12 : Ms. R. Mayanja, Special Adviser on gender issues and the promotion of women;

(*ii*) In connection with item 12 (*a*): Ms. Y. Ertürk, Special Rapporteur on violence against women, its causes and consequences;

(*jj*) In connection with item 13: Mr. J.M. Petit, Special Rapporteur on the sale of children, child prostitution and child pornography;

(*kk*) In connection with item 13: Mr. O.A. Otunnu, Special Representative of the Secretary-General for children and armed conflict;

(*ll*) In connection with item 13: Mr. P.S. Pinheiro, independent expert to direct an in-depth study of the question of the violence against children;

(*mm*) In connection with item 14 (*a*): Ms. G. Rodríguez Pizarro, Special Rapporteur on the human rights of migrants;

(*nn*) In connection with item 14 (*c*): Mr. W. Kälin, Representative of the Secretary-General on the human rights of internally displaced persons;

(*oo*) In connection with item 14 (*d*): Ms. G. Shahinian, member of the Board of Trustees of the United Nations Voluntary Fund on Contemporary Forms of Slavery;

(*pp*) In connection with item 14 (*d*): Ms. S.H. Khalifa bin Ahmed al-Thani, Special Rapporteur on disability of the Commission for Social Development;

(*qq*) In connection with item 15: Mr. L.E. Chávez, Chairperson-Rapporteur of the Open-ended intersessional working group on the draft United Nations declaration on the rights of indigenous peoples;

(*rr*) In connection with item 15: Mr. R. Stavenhagen, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people;

(*ss*) In connection with item 15: Ms. E.-I. Daes, Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights to undertake a study on indigenous people's permanent sovereignty over natural resources;

(*tt*) In connection with item 15: Mr. J.C. Morales Morales, member of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations;

(*uu*) In connection with item 16: Mr. S.J. Sorabjee, Chairperson of the Sub-Commission on the Promotion and Protection of Human Rights at its fifty-sixth session;

(*vv*) In connection with item 17: Ms. D. Orentlicher, independent expert appointed to update the Set of Principles for the promotion of human rights to combat impunity;

(*ww*) In connection with item 17: Mr. R.K. Goldman, independent expert to assist the High Commissioner in examining the question of the protection of human rights and fundamental freedoms while countering terrorism;

(*xx*) In connection with item 17 (*b*): Ms. H. Jilani, Special Representative of the Secretary-General on the situation of human rights defenders;

(*yy*) In connection with item 18 (a): Mr. M.J. Yutsis, Chairperson of the Committee on the Elimination of Racial Discrimination;

(*zz*) In connection with item 18 (a): Ms. V. Bonoan-Dandan, Chairperson of the Committee on Economic, Social and Cultural Rights;

(*aaa*) In connection with item 18 (a): Mr. F. Mariño Menéndez, Chairperson of the Committee against Torture;

(*bbb*) In connection with item 18 (a): Mr. A. Amor, Chairperson of the Human Rights Committee;

(*ccc*) In connection with item 18 (a): Ms. R.G. Manalo, Chairperson of the Committee on the Elimination of Discrimination against Women;

(*ddd*) In connection with item 18 (a): Mr. J.E. Doek, Chairperson of the Committee on the Rights of the Child;

(*eee*) In connection with item 18 (a): Mr. P. Kariyawasam, Chairperson of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(*fff*) In connection with item 19: Mr. P. Leuprecht, Special Representative of the Secretary-General for human rights in Cambodia;

(*ggg*) In connection with item 19: Mr. G. Alnajjar, independent expert appointed by the Secretary-General on the situation of human rights in Somalia;

(*hhh*) In connection with item 19: Mr. A. Okola, independent expert on the situation of human rights in Burundi;

(*iii*) In connection with item 19: Ms. C. Abaka, independent expert on technical cooperation and advisory services in Liberia;

(*jjj*) In connection with item 19: Mr. T.F. Pacéré, independent expert on the situation of human rights in the Democratic Republic of the Congo;

(*kkk*) In connection with item 19: Ms. M. Pinto, independent expert on the situation of human rights in Chad;

(*lll*) In connection with item 19: Mr. M.C. Bassiouni, independent expert on the situation of human rights in Afghanistan;

(*mmm*) In connection with item 19: Mr. L. Joinet, independent expert on the situation of human rights in Haiti;

(*nnn*) In connection with item 19: Mr. T. Hammarberg, Chairperson of the Board of Trustees of the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights.

[See chap. III.]

2005/102. Postponement of consideration of draft resolution E/CN.4/2005/L.3

At its 50th meeting, on 14 April 2005, the Commission on Human Rights decided, without a vote, to defer consideration of draft resolution E/CN.4/2005/L.3, entitled "Human rights situation of the Lebanese detainees in Israel", to its sixty-second session, under the same agenda item.

[See chap. IX.]

2005/103. Question of human rights in Cyprus

At its 50th meeting, on 14 April 2005, the Commission on Human Rights decided, without a vote, to retain on its agenda sub-item (*a*), entitled "Question of human rights in Cyprus", of the item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world" and to give it due priority at its sixty-second session, it being understood that action required by previous resolutions of the Commission on the subject would continue to remain operative, including the request to the Secretary-General to submit a report to the Commission regarding their implementation.

[See chap. IX.]

2005/104. Corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights

At its 51st meeting, on 15 April 2005, the Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2004/4 of 9 August 2004, decided, without a vote, to endorse the request of the Sub-Commission to the Secretary-General to facilitate the work of the Special Rapporteur to prepare a comprehensive study on corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights, by enabling her to attend the meetings of the "Friends of the United Nations Convention against Corruption", which take place in Vienna.

[See chap. X.]

2005/105. Study on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights

At its 51st meeting, on 15 April 2005, the Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2004/5 of 9 August 2004, decided, without a vote, to approve the decision of the Sub-Commission to appoint Mr. Marc Bossuyt as Special Rapporteur to undertake a study on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights, based on the working paper prepared by Mr. Emmanuel Decaux (E/CN.4/Sub.2/2004/24), on the comments received and the discussions held at the fifty-sixth session of the Sub-Commission, and in close cooperation with the Committee on Economic, Social and Cultural Rights, and the decision to request the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-seventh session, an interim report at its fifty-eighth session and a final report at its fifty-ninth session.

The Commission also approved the request of the Sub-Commission that the Secretary-General provide the Special Rapporteur with all the necessary assistance to enable him to carry out his mandate.

[See chap. X.]

2005/106. Promotion of the realization of the right to drinking water and sanitation

At its 51st meeting, on 15 April 2005, the Commission on Human Rights, taking note of resolution 2004/6 of 9 August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights, decided, without a vote, to approve the request of the Sub-Commission to have the reports of the Special Rapporteur to conduct a detailed study on the relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation, at the national and international levels (E/CN.4/Sub.2/2002/10, E/CN.4/Sub.2/2003/WP.3 and E/CN.4/Sub.2/2004/20) issued in the official languages of the United Nations.

[See chap. X.]

2005/107. Terrorism and human rights

At its 57th meeting, on 19 April 2005, the Commission on Human Rights, taking note of resolution 2004/21 of 12 August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights, decided, by a recorded vote of 40 votes to 2, with 11 abstentions:

(*a*) To express its deep appreciation to the Special Rapporteur, Ms. Kalliopi Koufa, for her excellent final report on the study entitled "Terrorism and human rights" (E/CN.4/Sub.2/2004/40);

(*b*) To recommend to the Economic and Social Council, mindful of the importance of the study of human rights and terrorism conducted over a number of years, that a compilation into a comprehensive document of all the reports and documents submitted to date by the Special Rapporteur be published as a United Nations publication as part of the *Human Rights Study Series*.

[See chap. XI.]

2005/108. The difficulty of establishing guilt and/or responsibility with regard to crimes of sexual violence

At its 57th meeting, on 19 April 2005, the Commission on Human Rights, taking note of resolution 2004/29 of 12 August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights, decided, without a vote, to approve the decision of the Sub-Commission to appoint Ms. Lalaina Rakotoarisoa as Special Rapporteur entrusted with preparing a detailed study on the difficulties of establishing guilt and/or responsibilities with regard to crimes of sexual violence, and to request the Special Rapporteur to submit to the Sub-Commission a preliminary report at its fifty-seventh session, an interim report at its fifty-eighth session and a final report at its fifty-ninth session.

The Commission also approved the request of the Sub-Commission to the Secretary-General to provide the Special Rapporteur with any assistance she may require to carry out her mandate.

[See chap. XII.]

2005/109. Discrimination based on work and descent

At its 57th meeting, on 19 April 2005, the Commission on Human Rights, taking note of resolution 2004/17 of 12 August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights, decided, without a vote, to approve the decision of the Sub-Commission to appoint Mr. Yozo Yokota and Ms. Chin-Sung Chung as Special Rapporteurs with the task of preparing a comprehensive study on discrimination based on work and descent, on the basis of the three working papers submitted to the Sub-Commission on this topic (E/CN.4/Sub.2/2001/16, E/CN.4/Sub.2/2003/24 and E/CN.4/Sub.2/2004/31), the comments made during the sessions of the Sub-Commission at which those working papers were submitted and the provisions of the above-mentioned resolution, and of responses from Governments, national human rights institutions, relevant organs and agencies of the United Nations system and non-governmental organizations to a questionnaire to be elaborated and circulated by the Special Rapporteurs.

The Commission also approved the request of the Sub-Commission to the Special Rapporteur to submit a preliminary report to the latter at its fifty-seventh session, a progress report at its fifty-eighth session and a final report at its fifty-ninth session, and its request to the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Special Rapporteurs with all the assistance necessary to enable them to accomplish this task.

[See chap. XIV.]

2005/110. Final report on the study on indigenous peoples' permanent sovereignty over natural resources

At its 58th meeting, on 20 April 2005, the Commission on Human Rights, taking note of resolution 2004/9 of 9 August 2004, of the Sub-Commission on the Promotion and Protection of Human Rights, decided, by a recorded vote of 38 votes to 2, with 12 abstentions:

(*a*) To express its deep appreciation to the Special Rapporteur, Mrs. Erica-Irene A. Daes, for her excellent and very comprehensive final report on the study entitled "Indigenous peoples' permanent sovereignty over natural resources" (E/CN.4/Sub.2/2004/30 and Add.1);

(*b*) To recommend to the Economic and Social Council that it authorize the Office of the United Nations High Commissioner for Human Rights to convene an expert seminar during the year 2005, to which representatives of indigenous peoples and Governments as well as the Special Rapporteur will be invited, in order to give further attention to and to discuss in detail the many political, legal, economic, social and cultural aspects and matters raised in the above-mentioned study, as well as to the study of the Special Rapporteur entitled "Indigenous peoples and their relationship to land" (E/CN.4/Sub.2/2001/21);

(*c*) Also to recommend to the Economic and Social Council, mindful of the importance of the studies, which may, inter alia, be used as a basis for reconciliation between Governments and indigenous peoples, that they be issued as United Nations publications as part of the *Human Rights Study Series*.

[See chap. XV.]

2005/111. Human rights and human responsibilities

At its 58th meeting, on 20 April 2005, the Commission on Human Rights, having considered the report of the Office of the United Nations High Commissioner on Human Rights on this issue (E/CN.4/2005/99), decided, by a recorded vote of 26 votes to 25, with 1 abstention, to request Mr. Miguel Alfonso Martínez, author of the study on human rights and human responsibilities requested by the Commission in its resolution 2000/63 of 26 April 2000, to prepare, without financial implications, for submission to and discussion at its sixty-second session, under the same agenda item, a new initial version of the pre-draft declaration on human social responsibilities (E/CN.4/2003/105, annex I), taking into account the debate held on this matter during its sixty-first session and, in particular, the comments and suggestions advanced by States and international governmental and non-governmental organizations on the pre-draft declaration, as reflected in the compilation that appears in the report of the Office of the High Commissioner.

[See chap. XVII.]

2005/112. The legal implications of disappearance of States and other territories for environmental reasons, including the implications for the human rights of their residents, with particular reference to the rights of indigenous peoples

At its 59th meeting, on 20 April 2005, the Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2004/10 of 9 August 2004, decided, by a recorded vote of 51 votes to 2, to welcome the working paper on the human rights situation of indigenous peoples in States and other territories threatened with extinction for environmental reasons (E/CN.4/Sub.2/AC.4/2004/CRP.1) , and endorsed the request of the Sub-Commission to Ms. Françoise Hampson to update and expand her work and submit an expanded working paper to the fifty-seventh session of the Sub-Commission.

The Commission also endorsed the request of the Sub-Commission to the Secretary-General to provide Ms. Hampson with all necessary assistance to enable her to update and expand her working paper, inter alia, by facilitating her contacts with States, including transmitting a questionnaire elaborated by Ms. Hampson to solicit information required in connection with her study.

[See chap. XVII.]

2005/113. Enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights

At its 60th meeting, on 21 April 2005, the Commission on Human Rights, taking note of the initial discussion paper on enhancing the effectiveness of the special mechanisms of the Commission prepared by the experts of the Group of Asian States on human rights at the request of the Group's ambassadors, as well as written responses to it, and bearing in mind the report of the Intersessional open-ended working group on enhancing the effectiveness of the mechanisms of the Commission (E/CN.4/2000/112) and its decision 2000/109 of 26 April 2000, as well as Action 4 as contained in the report of the Secretary-General entitled "Strengthening of the United Nations: an agenda for further change" (A/57/387 and Corr.1), decided, without a vote, to request the United Nations High Commissioner for Human Rights:

(*a*) To transmit the initial discussion paper and the responses to it to the special procedures mandate holders and to solicit their views, including on any additional contributions from all relevant stakeholders;

(*b*) To organize an informal consultation between the special procedures mandate holders and States, with the participation of the Office of the United Nations High Commissioner for Human Rights and non-governmental organizations in consultative status with the Economic and Social Council, devoted to an exchange of views on the issues contained therein for enhancing and strengthening the effectiveness of the special procedures of the Commission at their annual meeting in 2005;

(*c*) To study the issues raised in the initial discussion paper and contributions to it in light of Commission decision 2000/109 as well as of Action 4 and identify the practical steps taken by her Office to address these issues;

(*d*) To organize an open-ended seminar during 2005, from within existing resources, in consultation with the Expanded Bureau of the Commission, as part of the effort to enhance and strengthen the effectiveness of the special procedures;

(*e*) To submit a report on the implementation of the present decision to the Commission at its sixty-second session.

[See chap. XX.]

2005/114. Dates of the sixty-second session of the Commission on Human Rights

At its 61st meeting, on 21 April 2005, the Commission on Human Rights, recalling Economic and Social Council decision 1994/297 of 29 July 1994 and taking into account Council decisions 1997/291 of 22 July 1997 and 2002/278 of 25 July 2002, decided, without a vote, that the first meeting of the Commission would be held on the third Monday in January with the sole purpose of electing its officers, and that the sixty-second session of the Commission would be held from 13 March to 21 April 2006.

[See chap. III.]

2005/115. Organization of work of the sixty-second session of the Commission on Human Rights

At its 61st meeting, on 21 April 2005, the Commission on Human Rights, taking into account its heavy schedule of work as well as the need to give adequate consideration to all the items on its agenda, decided without a vote:

(*a*) To recommend to the Economic and Social Council that it authorize six fully serviced additional meetings, including summary records, in accordance with rules 29 and 31 of the rules of procedure of the functional commissions of the Council, for the Commission's sixty-second session;

(*b*) To request the Chairperson of the sixty-second session of the Commission to make every effort to organize the work of the session within the time normally allotted so that the additional meetings that the Council might authorize would be utilized only if they proved to be absolutely necessary.

[See chap. III.]

2005/116. Proposed reform of the Secretary-General in the area of human rights

At its 62nd meeting, on 22 April 2005, the Commission on Human Rights, taking into account the report of the Secretary-General entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005) on, inter alia, the reform of the Commission, and bearing in mind the recommendations contained in the reports of the panels commissioned by the Secretary-General, that is, the report of the High-level Panel on Threats, Challenges and Change entitled "A more secure world: our shared responsibility" (see A/59/565 and Corr.1) and the Millennium Project report entitled *Investing in Development: A Practical Plan to Achieve the Millennium Development Goals*, decided, by a recorded vote of 34 votes to 15, with 4 abstentions, to establish an open-ended working group, to be chaired by its current Chairperson, which will convene a five-day intersessional meeting in June 2005 to reflect coherently on the recommendations on human rights contained in the report of the Secretary-General with a view to contributing to the intergovernmental deliberations on the proposed reform of the United Nations in the General Assembly and, to this end, decided to convene a one-day special session to formally adopt the outcome of the open-ended working group and transmit it to the Secretary-General through the Economic and Social Council.

The Commission also decided to recommend to the Economic and Social Council the following draft decision for adoption:

[For the text, see chap. I, sect. B, draft decision 40.]

[See chap. III.]

2005/117. Situation of human rights in Liberia

At its 62nd meeting, on 22 April 2005, the Commission on Human Rights, taking note with appreciation of the report of the independent expert on the situation of human rights in Liberia (E/CN.4/2005/119), decided, without a vote, to consider the question at its sixty-second session under the same agenda item.

[See chap. III.]

2005/118. Technical cooperation and advisory services in the field of human rights in Chad

At its 62nd meeting, on 22 April 2005, the Commission on Human Rights decided, without a vote:

(*a*) To take note of the report of the independent expert on the situation of human rights in Chad (E/CN.4/2005/121) and to thank the independent expert for her excellent work;

(*b*) To commend the cooperation by the Government of Chad with the independent expert and the United Nations High Commissioner for Human Rights regarding the promotion and protection of fundamental rights;

(*c*) To welcome with satisfaction the readiness of the Government of Chad to accept the opening of an office in Chad of the Office of the United Nations High Commissioner for Human Rights;

The Commission also decided to request the Office of the High Commissioner to expand its cooperation with the Government of Chad.

[See chap. III.]

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